

BOARD OF PILOT COMMISSIONERS FOR THE BAYS OF
SAN FRANCISCO, SAN PABLO AND SUISUN

STATE OF CALIFORNIA

IN RE: PETITION OF THE SAN FRANCISCO BAR PILOTS FOR INCREASED PILOTAGE RATES)
)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, APRIL 1, 2015

VOLUME I

Reported By: SUSAN M. OHANESIAN, CSR No.: 13528

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1 APPEARANCES

2

3 BOARD OF PILOT COMMISSIONERS:

4 Francis X Johnston, President
Dave Connolly, Vice President5 Captain Joseph Long
Captain John Schneider6 Captain George Livingstone
Jennifer Schmid7 Ben DeAlba, Ex Officio Member, California State
Transportation Agency8 Allen Garfinkle, Executive Director
Roma Cristia-Plant, Assistant Director

9 Dennis Eagan, Counsel

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SAN FRANCISCO BAR PILOTS

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Raymond Paetzold, Counsel

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13 PACIFIC MERCHANT SHIPPING ASSOCIATION:

14 Mike Jacob, Vice President and General Counsel s
Conte C. Cicala, Counsel

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20 The proceedings were held at the Milton

21 Marks Conference Center located at 455 Golden Gate

22 Avenue, San Francisco, California, on Wednesday,

23 April 1, 2015, at 9:31 a.m., before Susan M. Ohanesian,

24 Certified Shorthand Reporter, in and for the State of

25 California.

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P R O C E E D I N G S

PRESIDENT JOHNSTON: Good morning, ladies and gentlemen. Welcome. Roll call, please.

MS. DOLCINI: President Johnston?

PRESIDENT JOHNSTON: Here.

MS. DOLCINI: Vice President, Connolly?

VICE PRESIDENT CONNOLLY: Here.

MS. DOLCINI: Commissioner Long?

COMMISSIONER LONG: Here.

MS. DOLCINI: Commissioner Schneider?

COMMISSIONER SCHNEIDER: Here.

MS. DOLCINI: Commissioner Livingstone?

COMMISSIONER LIVINGSTONE: Here.

MS. DOLCINI: Commissioner Schmid?

COMMISSIONER SCHMID: Here.

MS. DOLCINI: Representing the Secretary of the California State Transportation Agency?

EX OFFICIO MEMBER DEALBA: Ben DeAlba.

PRESIDENT JOHNSTON: This is a hearing before the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun. The San Francisco Bar Pilots filed a petition before the Board that seeks an increase in the rates that the pilots charge for their services. The Pacific Merchant Shipping Association has filed a response to the petition which opposes the rate

1 increases.

2 Members of the Hearing have obtained
3 information and data specifically requested by San
4 Francisco Bar Pilots increases in the bar pilots' rates.

5 THE COURT REPORTER: Can you please speak into the
6 microphone a little bit? I'm sorry, can you pull the
7 microphone closer to you. Thank you.

8 PRESIDENT JOHNSTON: The authority for the rate
9 hearing and the issues to be considered by the Board are
10 set forth in Sections 1200 through 1203 of the
11 California Harbors and Navigation Code, and section 236,
12 Title 7 of the California Code of Regulations.

13 This hearing is open to the public and
14 conducted under those provisions of the Bay Routine Open
15 Meeting Act, Government Code section 11120 through
16 11132. All parties have submitted written evidence in
17 support of their positions. The purpose of this hearing
18 is to obtain information relating to the issues raised
19 in the petition.

20 The Board will hear testimony from the San
21 Francisco Bay Pilots and from the Pacific Merchant
22 Shipping Association considering whether the pilotage
23 rates should be increased.

24 Please understand that the Board does not in
25 itself set pilotage rates, instead makes recommendations

1 to the legislature concerning whether the rates should
2 be adjusted.

3 After it has considered the evidence, the
4 Board will make a decision to recommend a rate
5 adjustment or not. It will then adopt findings in
6 support of its decision, and make recommendations to the
7 legislature.

8 The hearing will proceed as follows: The
9 San Francisco Bar Pilots will proceed with their
10 presentation first. They will be represented by their
11 counsel, Mr. Raymond Paetzold. Next, the Pacific
12 Merchant Shipping Association will proceed with its
13 presentation. The PMSA will be represented by its
14 counsel, Mr. Cicala and Michael Jacob.

15 The San Francisco Bar Pilots will then be
16 allowed time for the rebuttal. Next, members of the
17 public will be allowed to comment. If you wish to
18 address the Board, please fill out a slip with your name
19 so that we may call upon you to speak during public
20 comment. The public comment slips are available in the
21 front of the room; I think they're right here on the
22 table.

23 Finally, there will closing statements by
24 both the San Francisco Bar Pilots and the Pacific
25 Merchant Shipping Association. The record will then be

1 closed. The Board will begin commencing deliberations
2 on its decision and adjourn to a specific time and set
3 place for that purpose.

4 After it reaches a decision, the Board will
5 consider and adopt formal findings and recommendations
6 to submit to the legislature. The meeting for adoption
7 of formal findings and recommendations is set for 09:30,
8 Friday, April 10th, at the Board's office at 660 Davis
9 Street, San Francisco.

10 Before we proceed the Board Counsel,
11 Mr. Dennis Eagan, would like to make some brief
12 comments.

13 BOARD COUNSEL EAGAN: Just a few points. This is
14 directed to the members of the Commission. If something
15 is concerning you about a witness's testimony, you can
16 ask questions of a witness. Allow counsel to proceed
17 with its witness, and counsel may ultimately cover the
18 area that is concerning to you. But if it seems your
19 question is not being addressed, do not be reluctant to
20 pose a question yourself.

21 Secondly, counsel for both parties will make
22 opening statements and also closing statements. Again
23 here, if there is something about counsel's presentation
24 that puzzles you or concerns you, you may ask a question
25 of counsel. Just remember that the statements of

1 counsel are not evidence.

2 The sole basis for your decision in this
3 matter must be the written evidence that's placed on the
4 record, and the testimony of witnesses at the hearing.

5 And concerning this last point, everyone involved in
6 this hearing, the San Francisco Bar Pilots, the Pacific
7 Merchant Shipping Association and each member of the
8 Board should have access to the same body of evidence.
9 No Board member should be tempted to augment what is in
10 the official record with information from outside
11 sources.

12 If someone approaches you with information
13 that may relate to the subject of this hearing, don't
14 let that conversation get started. If someone wishes to
15 bring information to the Board's attention, the place to
16 do that is the public comment period that will follow
17 the presentations of the parties.

18 I should point out that this is a rate
19 making proceeding that applies generally to all pilots
20 licensed by the Board, not just to a particular
21 individual. As such, this proceeding is
22 quasi-legislative in nature.

23 The history of the provisions of the
24 Administrative Procedure Act that prohibit outsiders
25 from communicating information to State Agency Board

1 Members indicates that this prohibition was focused on
2 quasi-judicial administrative proceedings and not
3 intended to apply to proceedings such as this.

4 But the question is not free from doubt.
5 For that reason, do not engage in any contact that will
6 permit assertions that you are considering evidence
7 outside the record. Thank you.

8 PRESIDENT JOHNSTON: Thank you, Counsel. Now we
9 proceed with the first presentation by Mr. Paetzold.
10 You may proceed.

11 MR. PAETZOLD: Good morning, Mr. President,
12 members of the Board, members of the public. My name is
13 Raymond Paetzold. I am the business director and
14 general counsel of the San Francisco Bar Pilots.
15 Sitting to my right is Captain Greg Tylawsky who will be
16 assisting with the PowerPoint presentation.

17 Prior to the beginning of this process and
18 the filing of the San Francisco Bar Pilots' petition,
19 the pilots reached out to PMSA and to several members,
20 representatives of industry to address the issues that
21 are the basis of this petition.

22 I am pleased to report that the
23 communications were open and constructive and resulted
24 in an agreement with regards to the future costs and
25 expenses of the pilots, and sort of to reduce the time

1 needed for this petition and this presentation of the
2 evidence. And on behalf of the pilots, I'd like to
3 thank the industry and PMSA in those constructive
4 discussions.

5 The last rate increase in the statute was in
6 2006, nine years ago. In that nine-year interval, the
7 revenues have stayed relatively even. As you may
8 recall, we had a significant downturn after 2006.

9 By 2014, the total pilot revenues are just
10 slightly above what they were in 2006. In this
11 nine-year interval, the cost of living in the Bay Area
12 has increased by 20.5 percent. The pilots' expenses of
13 providing the pilot service have increased by 33 percent
14 during this nine-year interval. And the net income for
15 the pilots, that is what's left over after the expenses,
16 that have been paid has actually dropped to 9.5 percent.

17 Now, the statute section 1203, Regulation
18 236, which interprets that statute, requires 11 factors
19 for the Board to consider in determining what the
20 appropriate rates are. You don't have to try to read
21 them all quickly, I'll go through them.

22 First, the cost of providing pilotage
23 services are indicated you have in your binder, and I
24 believe in the form of an exhibit that was attached to
25 the prehearing order. The projected expenses as agreed

1 to by industry specific to this rate hearing.

2 The second factor, is net return to pilots
3 sufficient to attract and hold qualified pilots. You'll
4 be hearing evidence from Captain Wainwright with regard
5 to the attract and hold issue. The Board will be
6 primarily relying upon information from the 2011 rate
7 hearing as indicated in our petition in which the Board
8 found that the net return to pilots in San Francisco was
9 roughly in the middle as compared to those comparable
10 ports for which evidence was available.

11 The third factor is the cost of living
12 index. The Board is required to consider what the cost
13 of living index is, and there are two indexes the
14 regulation looks to. On the left hand side is the index
15 for the greater Bay Area, San Francisco, San Jose,
16 Oakland. The one on the right hand side is for the
17 western region.

18 Both indexes are mentioned in the
19 regulation. The information is provided in Exhibit B to
20 the Cohen Declaration in your binder, and an updated
21 covering the last two months will be provided probably
22 at the end of my opening when board counsel is asked for
23 updated information on the cost of the living index.

24 The fourth item you must consider are the
25 rates charged by comparable ports. Captain Tylawsky

1 will be testifying with regards to those ports. You
2 have on the screen an indication of those ports that the
3 Board deems comparable. There is a process for allowing
4 other ports to be considered, but it needs to be
5 evidenced of that. It needs to meet the comparability
6 index definition within section 236.

7 Factor number five is the income paid in
8 comparable ports. Again, the Board will be relying on
9 the 2011 finding that San Francisco was in the middle.
10 And Captain Tylawsky will be providing information as to
11 which of those ports had increases in rates since 2011.

12 The sixth factor is the method by which
13 rates are determined in comparable ports. Historically,
14 that information is provided with regards to those ports
15 where rate and income data is provided, and allows the
16 Board to look into how rates are determined in other
17 ports. That information is attached as Exhibit B to the
18 Tylawsky Declaration in the binder.

19 The seventh factor, economic factors
20 affecting the local shipping industry. In 2011, the
21 Board found that the economic factors were not such that
22 the relatively modest increases that the Board was
23 considering at that time would have resulted in shipping
24 being driven away.

25 The Board for the San Francisco Bar Pilots

1 rely upon both that finding and the provision in the
2 regulation states that the party that seeks to prove
3 that the rates should be affected by economic factors
4 has the burden of proving that or persuading the Board
5 of that. And that's not a hint to produce additional
6 evidence on that.

7 The eighth factor is the volume of shipping
8 traffic. The Port Agent provides monthly information to
9 the Board regarding ship movements, bar crossings, bay
10 moves, river moves and gross registered tonnage.
11 Captain McIsaac will be testifying with regards to gross
12 registered tonnage and ship traffic. And you have the
13 data for the last, at least, nine years, maybe longer in
14 Exhibit B of the McIsaac Declaration in the binder.

15 Number nine is number of pilots available.
16 As of today in these meetings, we are at 58.

17 Item number ten is the risk to pilots.
18 Captain McIsaac will be testifying with regard to that
19 factor.

20 Item number eleven, changes in technology.
21 And Captain McCloy will be testifying with regards to
22 both portable types of units that the pilots are
23 required to use by regulation. And the PALMate that is
24 used by e-pilots will be discussed further during the
25 testimony with regards to ultra large container vessels.

1 That constitutes my opening. And I thank
2 you for your attention. I hope that you will find this
3 rate hearing to be informative to you and allow you to
4 make an informed decision as to what recommendations to
5 make to the legislature. Thank you very much.

6 PRESIDENT JOHNSTON: Thank, you sir. Your next
7 presenter?

8 BOARD COUNSEL EAGAN: Inquire initially, will PMSA
9 be making its opening statement now or later?

10 MR. JACOB: Thank you. We will make our opening
11 statement now. Good morning, Commissioners and
12 Association. My name is Mike Jacob with the Merchant
13 Pacific Shipping Association and also general counsel
14 for PMSA. And we wanted to make a couple of really
15 brief comments this morning in opening, just to talk
16 about why we're here.

17 I want to start by thanking Ray, counsel for
18 SFBP and the kind words with respect to the cooperation
19 between industry and pilots with respect to the hearing
20 today. And it is true, we did get to a place where we
21 were able to stipulate to information that in the past
22 has been relatively controversial.

23 So we were happy we were able to do that and
24 move forward with really more of an exposition about
25 where is the future of San Francisco Bay Pilots headed.

1 What are the trends that have been in place, and taking
2 a look at that, what's transpired since the last time we
3 had a rate hearing in 2011.

4 And since 2011, pilot incomes are much
5 higher than they were expected at that time. They're
6 certainly much higher than what was projected by San
7 Francisco Bar Pilots. There was no rate increase in
8 2011 and as a result, they were expected to have an
9 average net income per pilot of \$362,000 in 2014, and it
10 was \$453,000.

11 That's a significant increase, and in fact
12 on per move basis is the highest it has ever been in the
13 San Francisco Bay. Tonnage was expected to be flat in
14 2011 by 2014. And again, tonnage is the highest it has
15 ever been in the San Francisco Bay in 2014.

16 When you compare expenses to 2011 they were
17 expected to be almost exactly 99.9 percent of where they
18 are in 2014. And they are almost exactly on the 25-year
19 average for expenses. So there's nothing extraordinary
20 about the expenses of what was expected. Historically,
21 it is consistent with what the percentage should be with
22 respect to income.

23 And we're happy to stipulate that we expect
24 their expenses to grow because we think that's accurate.
25 We also believe that the historical trends are such, and

1 it is irrefutable. In fact, this Board in 2011
2 acknowledged that the historical trend is such that as
3 tonnage gets bigger, ships get bigger. And actually
4 both parties you will hear from today will talk about
5 more ultra large container vessels come, again,
6 affirming this trend in 2011.

7 But the biggest change since 2011, frankly,
8 is the Board. Only one member of the Board has been
9 through this process, Commissioner Johnston. And the
10 rest of the Board is going through this for the first
11 time. So when you look through our submission, what we
12 really wanted to do was give you a lot of background
13 information. It was a lot of reading. I appreciate you
14 putting up with a lot of background information, and
15 today we'll kind of be going through the Readers' Digest
16 of that when we go through our questioning and our
17 presentation of closing statement.

18 But I think at the end of the day what we
19 wanted to do was really just lay out for you that
20 there's no good case for a rate petition at this point
21 in time. If you consider the historical trends, if you
22 make the same finding that the Board made in 2011
23 regarding the application of those trends to tonnage and
24 to income, it is a very hard case to make.

25 And as both counsel and President Johnston

1 made clear in their opening comments, this Board is
2 driven by an evidentiary process. And the petitioning
3 party as in most situations where you have a moving
4 party carrying their burden carried by a preponderance
5 of the evidence that there is a necessity for a rate
6 change.

7 We acknowledge, again, that the income will
8 go up based on the same historical trends supported by
9 the knowledge in 2011. We think the difference between
10 our petition and their petition in 2011 was played out.
11 The Board acknowledged that there's going to be growth.
12 And three years later if you look at the numbers, the
13 pilots are actually exceeding what they asked for in
14 terms of total net income in 2014.

15 If they had actually been correct about
16 their assumptions and received rate increases they
17 wanted, San Francisco Bar Pilots were asking for in 2014
18 was \$448,770. What they actually received last year
19 without a rate increase \$453,729, \$5,000 ahead of where
20 they wanted to be last year.

21 We're not here asking for a rate decrease.
22 We're not here to prove a petition of our own. We don't
23 carry a burden. We are here to ask you to not approve a
24 19.25 percent compounded rate request when the facts
25 show a grow on their own. We all have an interest in

1 having ultra large container vessels coming to this
2 port. We want to see more business in the port, so do
3 the bar pilots. And we can do that without a rate
4 increase.

5 Thank you.

6 PRESIDENT JOHNSTON: Thank you, Mr. Jacob.
7 Executive Director.

8 BOARD COUNSEL EAGAN: Interject under the
9 prehearing order. This is the point for any additional
10 evidence that hasn't already been introduced. Executive
11 Director Allen Garfinkle will discuss what are going to
12 be Exhibits 7A and 7B.

13 7A is a graphic representation of the two
14 things, the number of pilots that are currently eligible
15 or will become eligible in the ensuing years to retire.
16 And the second part of Exhibit 7A is the actual
17 intentions as of now, at least, of certain pilots in
18 terms of when they intend to retire.

19 Exhibit 7B will be the questionnaire that
20 was sent out in early December to each of the pilots
21 soliciting responses to questions that ultimately yield
22 the graphic representation. So Allen, if you could
23 discuss that please.

24 (Whereupon Exhibits 7A and 7B were marked for
25 identification.)

1 EXECUTIVE DIRECTOR GARFINKLE: Thank you, Dennis.

2 On December 5, 2014, pursuant to Board
3 protocol, the Board staff sent out retirement surveys to
4 all the licensees under the Board's jurisdiction. The
5 questionnaire was sent out by US mail with two envelopes
6 included with it to provide for anonymous submission of
7 retirement survey.

8 Retirement survey is then used by the Pilot
9 Power Committee to make decisions on a number of
10 trainees to introduce to the training program. The
11 questionnaire is included in the envelope, inner
12 envelope as well as a stamped return envelope to the
13 Board is provided so that when the retirement survey
14 arrives back at the Board office, it is in an envelope
15 without any names on it and is put into a file whereby
16 its anonymity is retained.

17 The results have been distributed to you,
18 and on the results you'll see there's two graphs. One
19 states eligible to retire, and one states intend to
20 retire. And the pilots are asked two questions. The
21 first question is, "I am or will be eligible for pension
22 benefits under the above criteria."

23 And then the series of responses available
24 to them are either now, or on or before January 1st,
25 2016, on or before January 1st 2017 and on through

1 January 1st, 2022. The final answer response is after
2 January 1st, 2022.

3 The second question they're asked is
4 "Everything else being equal, I intend to retire on or
5 by." And then the available responses to them are
6 January 1st, 2016, and every year there after until
7 January 1st, 2022. Then the final available response is
8 after January 1st, 2022.

9 At the end of the questionnaire they have an
10 option to briefly describe factors that may affect their
11 decision to retire or postpone retirement. This is not
12 used in the survey. It is strictly for Pilot Powers use
13 in determining possible motivations for retirement. The
14 questionnaire starts out with some instructions, and
15 I'll read those to you now.

16 This questionnaire is distributed to all
17 pilots regardless of their years of experience. In
18 order to assist the Board of Pilot Commissioners, the
19 Port Agent and the Pilot Power Committee in forecasting
20 the need for additional trainees is requested that you
21 complete this form and return it to office in the
22 enclosed addressed and stamped envelope.

23 The form is meant to be anonymous. Place it
24 in the enclosed privacy envelope. Do not sign the
25 printed document. Current eligibility criteria for

1 pension benefits under the statutory of San Francisco
2 pilot pension plan require that a pilot be 62 years of
3 age at the time of retirement, or 60 years or ten years
4 of experience as a licensed pilot, whichever comes
5 first.

6 This survey is conducted with frequency.
7 Retirement plans can be uncertain or change with
8 perspective and personal experience. The questionnaire
9 intends to take a snapshot of the retirement views and
10 plans as they are today, assuming current eligibility
11 criteria remains unchanged and all things continue to go
12 according to your plans.

13 Thank you for your continued cooperation of
14 these surveys. And we wish you fair winds and foaming
15 seas for the new year.

16 They're instructed to return the survey to
17 the Board of Pilot Commissions Office by January 5, 2015
18 in the case of this survey. We did receive 59 responses
19 to the survey in January of 2015. Of those
20 responding -- because we were short one pilot of 60.

21 Ten said they are now eligible; on or before
22 January 1st, 2016, three more responded they were
23 eligible; on or before January 1st, 2017, four responded
24 they were eligible; on or before January 1st, 2018,
25 another four; on or before January 1st, 2019, two; on or

1 before January 1st, 2020, four; on or before
2 January 1st, 2021, one; on or before January 1st, 2022,
3 three; and after January 1st, 2022, 28. That totals 59.
4 That's graphed out on the retirement handout.

5 On the intent to retire side of things, they
6 were asked do you intend to retire on or before
7 January 1st of the year indicated, and three indicated
8 they intend to retire on or before January 1st, 2016;
9 five on or before January 1st, 2017; four on or before
10 January 1st, 2018; three on or before January 1st, 2019;
11 two on or before January 1st, 2020; one on or before
12 January 1st, 2021; two before on or before 2022; and 39
13 after January 1st, 2022. Thank you.

14 PRESIDENT JOHNSTON: Thank you.

15 BOARD COUNSEL EAGAN: There is one additional
16 exhibit. Actually, I should say, in the petition
17 submitted by the San Francisco Bar Pilots there was
18 information concerning the change in the consumer price
19 index for a number of periods. The regulations, section
20 236 of the Board's regulation, requires information on
21 the change in the CPI since the last rate hearing to the
22 present for two majors of CPI changes. One for the San
23 Francisco, Oakland, San Jose area; and one for the
24 western area which is Western United States.

25 The prehearing order directed SFBP to update

1 that information. We have now received that update
2 which will be Exhibit 8. It consists of three pages.

3 Does PMSA have this?

4 MR. JACOB: I do. Thank you.

5 BOARD COUNSEL EAGAN: First page is the summary of
6 the two indexes and what the change has been since 2011.
7 The next two pages are printouts from the website of the
8 Bureau of Labor Statistics that shows the data that was
9 used to prepare the summary, which is on the first page.
10 With that, I guess we're ready to proceed.
11 Mr. Paetzold.

12 MR. CICALA: We have a question here. We would
13 like an opportunity to ask some questions of the
14 Executive Director.

15 BOARD COUNSEL EAGAN: Do you want to do that now?
16 Maybe we can get that out of the way.

17 MR. PAETZOLD: No objection to that.

18 EX OFFICIO MEMBER DEALBA: Counsel, are we
19 supposed to have that exhibit?

20 BOARD COUNSEL EAGAN: I have copies.

21 MR. PAETZOLD: I have additional copies.

22 BOARD COUNSEL EAGAN: I have copies that I can
23 distribute.

24 COMMISSIONER SCHNEIDER: Thank you.

25 COMMISSIONER LONG: What was just handed out here

1 is an update for tab -- the information in Tab B of the
2 petition?

3 PRESIDENT JOHNSTON: Tab B is the CPI information,
4 yes.

5 MR. PAETZOLD: If I might address that. There are
6 separate tabs behind each of the declarants. This is
7 tab B to the Cohen declaration which is separately
8 marked, almost at the very end of the binder that was
9 presented by the San Francisco Bar Pilots.

10 MR. CICALA: Good morning to members of the Board,
11 the San Francisco Bar Pilots and the public. I'm Conte
12 Cicala, one of the outside counsel for PMSA. And I just
13 have a few questions for Director Garfinkle to maybe
14 flesh out the two documents that he submitted. First of
15 all, did you draft the pilot retirement questionnaire?

16 EXECUTIVE DIRECTOR GARFINKLE: The pilot
17 questionnaire has been in use for several years, and we
18 have not changed anything but the dates essentially and
19 added the question at the bottom.

20 MR. CICALA: How long has this specific form of
21 questionnaire been in use?

22 EXECUTIVE DIRECTOR GARFINKLE: It essentially has
23 been in use at least for the five years that I have been
24 Executive Director.

25 MR. CICALA: So it was in place before you

1 arrived?

2 EXECUTIVE DIRECTOR GARFINKLE: I don't have a
3 recollection if they did it before I arrived.

4 MR. CICALA: Do you remember if they wrote this
5 original form of document?

6 EXECUTIVE DIRECTOR GARFINKLE: I do not.

7 MR. CICALA: Okay. With respect to the data
8 that's recorded on the spreadsheet Exhibit 7B, the
9 listing of pilots who are eligible to retire, is that
10 based solely on the responses to the questionnaire?

11 EXECUTIVE DIRECTOR GARFINKLE: Yes it is.

12 MR. CICALA: So there is no separate determination
13 by the Board regarding who is eligible in any given
14 year?

15 EXECUTIVE DIRECTOR GARFINKLE: No, there is not.

16 MR. CICALA: And with respect to the intent
17 retire, is the same true? In other words, is it based
18 solely on the written responses that are received to the
19 questionnaire?

20 EXECUTIVE DIRECTOR GARFINKLE: Yes it is.

21 MR. CICALA: Does anyone ever fill out the part at
22 the bottom of the questionnaire?

23 EXECUTIVE DIRECTOR GARFINKLE: Rarely.

24 MR. CICALA: Are those responses -- is a record of
25 those responses kept?

1 EXECUTIVE DIRECTOR GARFINKLE: All the
2 questionnaires, the responses are kept in our files.

3 MR. CICALA: Does that go back, give or take, for
4 five years since you've been administering the survey?

5 EXECUTIVE DIRECTOR GARFINKLE: I can't speak to
6 that without checking the records.

7 MR. CICALA: With respect to the intent to retire,
8 have you ever done any sort of comparison year to year
9 as to the change between pilots' intentions?

10 EXECUTIVE DIRECTOR GARFINKLE: Informally in the
11 Pilot Power Committee meetings there has been a
12 comparison. The committee members occasionally ask for
13 copies of older surveys to see how the intent has played
14 out, yes.

15 MR. CICALA: Has anyone ever noted a sharp change
16 in intent from year to year of the survey?

17 EXECUTIVE DIRECTOR GARFINKLE: There may have been
18 notations of that. I would have to consult the Pilot
19 Power of Committee meeting minutes and see if they were
20 recorded. I don't recall such a change, but there has
21 been -- I do recall noting that there appears to be a
22 slight lag. The intent to retire doesn't always turn
23 out to be quite as true as what happens.

24 MR. CICALA: By that do you mean that often pilots
25 will work past their stated intent to retire?

1 EXECUTIVE DIRECTOR GARFINKLE: Since it is
2 anonymous, I can't really respond to that question.

3 MR. CICALA: What is the lag that you described
4 just now, what do you mean by that?

5 EXECUTIVE DIRECTOR GARFINKLE: What I meant by
6 that is, for instance, the surveys may indicate three
7 people intend to retire, and that may or may not occur.
8 In some cases it may not occur.

9 MR. CICALA: Just so I'm understanding what is
10 reflected on this spreadsheet, Exhibit 7B, I believe you
11 already went through and listed the numbers of who was
12 eligible to retire versus who intends to retire. But if
13 I could ask you to look at it and compare the
14 eligibility to retire through 2019 to the intent to
15 retire. And I ask if it is fair to conclude from this
16 that in 2019 based on the survey responses there will be
17 eight pilots eligible to retire who as of 2019 do not
18 intend to retire?

19 EXECUTIVE DIRECTOR GARFINKLE: I didn't follow
20 your question. We're talking about Exhibit 7A, the
21 survey itself?

22 MR. CICALA: No. I'm talking about Exhibit 7B,
23 the questionnaire. The response, sorry.

24 EXECUTIVE DIRECTOR GARFINKLE: The response I
25 understood to be 7A, and the questionnaire to be 7B. Is

1 that right?

2 MR. CICALA: Right. With respect to 7B, if you
3 compare who is eligible to retire through 2019 versus
4 the list -- if you add up all the retirements that are
5 intended, when we reach 2019 based on the current intent
6 there will be eight pilots eligible to retire who have
7 not retired.

8 EXECUTIVE DIRECTOR GARFINKLE: What I read in
9 eligibility including the ten that are now currently
10 eligible, ten plus three plus four plus four plus two,
11 about 25 pilots are eligible.

12 MR. CICALA: 23, I believe.

13 EXECUTIVE DIRECTOR GARFINKLE: 23, okay. And your
14 question is comparing that to the intents to retire?

15 MR. CICALA: That's right. If you add up 2016,
16 2017 --

17 EXECUTIVE DIRECTOR GARFINKLE: So it looks like 15
18 intend to retire by 2019.

19 MR. CICALA: So you would agree that 23 minus 15
20 equals 8?

21 EXECUTIVE DIRECTOR GARFINKLE: Yes. I would agree
22 with that, correct. That's the easiest question you've
23 asked me.

24 MR. CICALA: I did not intend to do a math quiz.
25 I just wanted to make sure that I'm understanding what

1 the spreadsheet actually reflects. So is that a fair
2 interpretation of this spreadsheet, that as of 2019
3 there are eight pilots who have indicated that they are
4 eligible to retire in 2019 but do not intend to retire
5 as of that date?

6 EXECUTIVE DIRECTOR GARFINKLE: That would be a
7 fair representation. But as the questionnaire
8 indicates, this is a snapshot. And what we learn is
9 that people's plans change based on the economy and
10 various personal items such as family and health.

11 MR. CICALA: Right, understood. And you said
12 earlier that you saw something of a lag. More often
13 than not pilots may actually work longer than their
14 intent rather than shorter, I believe you said?

15 EXECUTIVE DIRECTOR GARFINKLE: I did say that.
16 But what we have found is it goes both ways for personal
17 reasons. Sometimes pilots that did not intend to
18 retire, retire early.

19 MR. CICALA: Have you ever had to field questions
20 regarding the meaning of the questionnaire? Has anyone
21 ever called you up after receiving the questionnaire and
22 asked you to explain it?

23 EXECUTIVE DIRECTOR GARFINKLE: No. We feel that
24 the questionnaire itself is pretty self explanatory.

25 MR. CICALA: I understand. I'm just asking if

1 anyone has ever called you to explain it.

2 EXECUTIVE DIRECTOR GARFINKLE: I don't recall
3 anyone ever doing that, no.

4 MR. CICALA: Thank you very much.

5 EXECUTIVE DIRECTOR GARFINKLE: You're welcome.

6 MR. PAETZOLD: If I may make a comment for the
7 record, because I think it's confusing. I believe
8 Exhibit 7A is the exhibit that has the chart of eligible
9 to retire and intend to retire results, and Exhibit B is
10 the questionnaire.

11 BOARD COUNSEL EAGAN: Correct.

12 MR. PAETZOLD: Am I correct in that?

13 BOARD COUNSEL EAGAN: Correct.

14 MR. PAETZOLD: I don't think anybody was mistaken
15 in terms of what the question was, but sometimes the
16 record can get a little confusing if we switch exhibits.

17 PRESIDENT JOHNSTON: Are you finished with your
18 questions?

19 MR. CICALA: Yes, thank you.

20 PRESIDENT JOHNSTON: Mr. Paetzold?

21 MR. PAETZOLD: Before I call my first witness, I
22 prepared a PowerPoint that we'll be using in the process
23 of the witness's testimony. I provided copy of as close
24 to the final PowerPoint in written form or in printed
25 form both to counsel for the Commission and to the PMSA.

1 I believe I have an agreement from PMSA that
2 a copy can be provided to the commissioners so they can
3 take notes without it considered to be violating the
4 30-day rule with regards to written evidence. And I
5 would ask that PMSA if that's correct.

6 MR. JACOB: If that's fine with the Board Counsel,
7 then that's fine with us.

8 BOARD COUNSEL EAGAN: Yes.

9 MR. PAETZOLD: I have those. If it pleases the
10 Board, I will hand them out or hand it to somebody else.

11 BOARD COUNSEL EAGAN: Thank you.

12 EXECUTIVE DIRECTOR GARFINKLE: Thank you.

13 MR. PAETZOLD: The Bar Pilots call Captain McIsaac
14 to the stand. As a point of order, it is the intent of
15 the Board to have the witness sworn, or shall he testify
16 without being sworn?

17 BOARD COUNSEL EAGAN: I don't believe we swore
18 them in 2011. So unless somebody has a specific request
19 along those lines, we will not swear the witnesses.

20 MR. PAETZOLD: No objection.

21 EXAMINATION OF CAPTAIN MCISAAC:

22 MR. PAETZOLD: Good morning, Captain McIsaac.

23 CAPTAIN MCISAAC: Good morning.

24 MR. PAETZOLD: The Board is familiar with your
25 background. I'm not going to be asking you to repeat

1 any information about your background and experience.

2 Could you elaborate on your duties as a port agent to
3 assign pilots carry out that duty?

4 CAPTAIN MCISAAC: Yes. The assignment of pilots
5 is in a rotation basis with the exception of special
6 assignments. So in other words, when you finish you go
7 to the bottom of the board until you become the number
8 one pilot. The next job on the dispatch list, you are
9 assigned to that.

10 The special assignments are essentially the
11 rivers. You don't have enough work on the rivers to
12 keep all 58 pilots current. So we have anywhere from 12
13 to 15 pilots that serve the rivers. Some of
14 those -- well, they hold the Stockton Commission as well
15 as a commission from this Board.

16 And also flat tows. We typically assign
17 someone with a tugboat background to do flat tows since
18 those are somewhat more aligned with moving a barge
19 since there is no power, no rudder. And cruise ships,
20 we only get -- this year I believe we are scheduled for
21 84 cruise ships to call on San Francisco. Some of those
22 ships are specialized in as much as they have Azipods.
23 But it is not so much the Azipods. We do handle other
24 ships with those.

25 But the fact that there is crosscurrent in

1 the city front, I think most pilots would agree that
2 they would much rather do 5 to 8 vessels going
3 crosscurrent into the city front rather than maybe one a
4 year.

5 All pilots sail the vessels from the cruise
6 terminal, but we have a list of pilots to dock the
7 vessel in on the pilot.

8 MR. PAETZOLD: Some of the members of the public
9 don't know what an Azipod is. Would you please explain
10 that?

11 CAPTAIN MCISAAC: It's an external drive,
12 essentially an electric motor that drives the propeller.
13 It hangs below the hull of the vessel, so it is not a
14 fixed propeller. It can actually rotate, so there's no
15 rudder. The power can be applied in almost any
16 direction. So it is somewhat unique compared to most
17 vessels that we handle. And most Azipod ships call on
18 San Francisco. They have two instead of just the single
19 fixed propeller.

20 MR. PAETZOLD: And getting a sense of the service
21 area for the pilots, can you describe where the pilots
22 board and disembark ships, and where the office is
23 located in the Bay Area?

24 CAPTAIN MCISAAC: Sure. The boarding area is
25 11 miles out to the sea in the open seaway. It is

1 approximately 11 miles away from the Golden Gate Bridge.
2 It is beyond San Francisco Bar. The bar is the shoal
3 sediment that is built up over centuries and was
4 accelerated post gold rush due to the hydraulic mining
5 in the Sierras. But the bar itself extends about eight
6 or nine miles west of the Golden Gate Bridge.

7 The pilot office is centrally located in the
8 Bay in Pier 9. And the main reason that we need to stay
9 in the Central Bay is so that we can service the bar.
10 Boats break down, and we need to get a pilot out to the
11 station to the vessel and get the pilot off.

12 MR. PAETZOLD: What is the significance of the bar
13 as far as the effect on piloting the vessel across the
14 bar?

15 CAPTAIN MCISAAC: There is a dredge channel that
16 the Corps of Engineers maintains. The project depth is
17 dredged to 55 feet. Currently, I believe it is 53 feet.
18 It is constantly shoaling. And the effect of it is that
19 it is deep water up until the bar. And you get the
20 swells coming in, and the swells tend to build up as
21 they hit the bar. And they get shorter and steeper, and
22 if it is rough enough or if it is high enough then they
23 will start to break across the bar.

24 MR. PAETZOLD: With regards to the ports that the
25 San Francisco Bar Pilots service, can you point out some

1 of those that the Board is not necessarily familiar
2 with?

3 CAPTAIN MCISAAC: Well, we do service Monterey,
4 but that's really a -- very few ships go in there, maybe
5 half a dozen per year. Redwood City is kind of a port
6 in the South Bay. That's approximately 38 miles from
7 the pilot station. Benicia is another port up towards
8 the top. There's a major oil terminal there, Valero.
9 There's also a car port facility up there. Then
10 Stockton, a lot of growth in Stockton. Very active
11 river port up to San Joaquin in excess of 90 miles from
12 the pilot station.

13 MR. PAETZOLD: In your declaration, you indicate
14 pilots are on call every hour, every day in all weather
15 conditions. I have this brief video, if you could
16 describe what that shows.

17 CAPTAIN MCISAAC: Well, hopefully I won't lose my
18 breakfast. Well, this is an old video. It is a pilot
19 boat going alongside a, looks like a light vessel
20 in weather that's pretty good sea running. And the
21 conditions of -- this is somewhat atypical. We don't
22 operate like this in these conditions every day.
23 Typical summer day is 25 knots prevailing out of the
24 northwest with a sea and swell running northwesterly,
25 from the northwest as well.

1 MR. PAETZOLD: Section 218 of the Board's
2 regulations authorizes the Port Agent to close the bar.
3 You discussed what the bar is. But what is the process
4 of closing the bar, and what kind of condition would
5 require you to close the bar?

6 CAPTAIN MCISAAC: Well, the conditions differ for
7 different vessels as to whether the bar gets closed
8 down. It is typically when we've got a winter storm
9 coming in. If it blows from the south. If starts
10 working from the prevailing northwesterly sea, and
11 creates a very confused sea. Typically it's worse on
12 the ebb, because you have all of that water flowing out
13 of the Golden Gate going up against the incoming sea.
14 And it tends to make the seas very steep, and they start
15 to break.

16 The reason I say that it differs from
17 various ships, some ships are light we also have closed
18 the bar to just a one vessel one time. It was drawing
19 19 feet, and we felt that it was not safe for the pilot
20 to go out and try to disembark. The vessel was going to
21 Korea, so we did not want to lose their services for 12
22 to 14 days.

23 And we've also closed the bar for vessels
24 that were too deep to go out. In that example, the
25 vessel was drawing about 46 to 47 feet of draft, it was

1 a very large, ultra large container vessel. We had a
2 20-foot sea running. We wanted to depart on low water.
3 So on a 55-foot bar, 20-foot sea with 47 feet of draft,
4 the math just didn't work.

5 So after I talked with the captain, we took
6 that vessel to anchorage where it sat for approximately
7 a day and a half until -- he wanted the swells to get
8 down below three meters.

9 But there are times when we close the bar to
10 all vessels. And typically that's for the safety of the
11 vessels and the safety of the pilots, therefore the
12 environment. When that happens, I get in contact with
13 the captain of the port. He issues the actual order on
14 that point.

15 MR. PAETZOLD: When was the last time the bar was
16 closed to all vessels?

17 CAPTAIN MCISAAC: I believe three years ago.

18 MR. PAETZOLD: It's not something that happens
19 very often?

20 CAPTAIN MCISAAC: No, especially during periods of
21 drought.

22 MR. PAETZOLD: One of the things you have in your
23 declaration is that pilots are expected to act in the
24 public interest, and make professional judgments that
25 are independent of any desire that do not comport with

1 maritime safety. Can you elaborate on that
2 responsibility of the pilots?

3 CAPTAIN MCISAAC: Yes. The state pilot -- we're
4 licensed by the state. And we serve the ship, but we
5 also serve the people of the State of California. And
6 the pilot should not be influenced by commercial
7 pressures, where there are times when the master of a
8 ship is still trying to keep his schedule and he's
9 getting pressure.

10 It seems to happen less, just because
11 accidents get more media attention and the stakes are
12 getting so high. No one wants to push the envelope like
13 they did at the beginning of my career 20 years ago.

14 MR. PAETZOLD: You go on in your declaration to
15 talk about the expenses and the kinds of things that go
16 into providing a pilot service. We agree about what the
17 future expenses will be assuming general operating costs
18 and consumer parameters. But can you briefly describe
19 to the Board what is shown in the next series of slides
20 with regards to how the pilots provide service?

21 CAPTAIN MCISAAC: Well, these are two of our ocean
22 class boats. We have three total of our five boats in
23 San Francisco. And these are expensive vessels. These
24 are the ones that will stay offshore at station 11 miles
25 west of the Golden Gate, typically four days at a time.

1 They have a crew of four. They are expensive to
2 maintain, expensive to run, expensive to insure.

3 That's the pilot vessel, Golden Gate. We
4 call it a run boat. That's the vessel that's used to
5 kind of shuttle pilots back and forth, typically to the
6 bar, to the anchorage, sometimes to Oakland or from
7 Oakland. We also use that vessel when we are putting on
8 an E-pilot, or engaging in the continuing professional
9 development program that allows a senior pilot to get
10 off in the vicinity of the city front, or get on in the
11 vicinity of the city front. We will use the Golden Gate
12 to transfer that pilot.

13 There's the mighty Pittsburg. That
14 typically is stationed in Pittsburg, California. That
15 services the river board. A ship going up river will
16 typically change pilots at Pittsburg. We'll put a river
17 pilot on board.

18 There's the San Francisco on the ways over
19 at the shipyard. There's our ocean fleet in for an hour
20 or two.

21 So on the left we have one of the stationed
22 boats. Like I said, we typically have a crew of four.
23 And total crew is 24. On the right we have one of our
24 senior guys, Steve Messenger. He's been with us for
25 over 25 years. He typically runs the Golden Gate.

1 There's the location of our pilot house or
2 pilot station at the end of Pier 9. And then as that
3 says, in 1992 they completed the renovations,
4 essentially built out the interior, built a building
5 within the shell of the pier.

6 And some of the highlights here, I'll just
7 hit a couple of these. But obviously we have a 24/7
8 dispatch office. We always have someone on duty in the
9 dispatch office. We always have an operations pilot on
10 duty, not necessarily at the office. But they do a
11 regular pilot shift, and we'll go into more detail what
12 they do later.

13 Also contains the various other offices
14 including the marine operations pilot office, marine
15 superintendent's office. And one -- I won't say it's
16 totally unique -- but one thing that's very beneficial
17 to the Pier 9 pilot office is we have sleeping rooms.
18 We have four individual rooms, and then one larger bunk
19 room. There's times when that comes in very handy for
20 kind of fatigue management. If a pilot has been up all
21 night, they will frequently go there and sleep before
22 they try and drive home.

23 And there are just some of the photos of
24 what we do in the -- the upper left is the dock bosun
25 and marine engineer's office. On the right is part of

1 the shop. On the lower left is the marine engineer, and
2 on the lower right is our bosun locker where we keep our
3 cold stores for the vessel. There's our human resources
4 controller, billing person, facility manager and our
5 24-hour dispatch and our operations pilot.

6 Our operations pilot, we're a shallow water
7 port so pretty much every vessel that goes up river,
8 that job has to be planned out. If it is going out
9 loaded, it typically goes out on the high tide. If it
10 is going up to discharge, we try to get them up there on
11 the high tide.

12 And the operations pilot will work with the
13 agents to determine what draft they can load a vessel
14 to. And frequently that's outside 6 to 8 weeks, because
15 if they want to load a ship in China to come here they
16 need to know, you know -- if they're going to have that
17 ship here in 5 or 6 weeks they need to know what draft
18 they can load that to, because every inch of cargo is
19 worth a lot of money.

20 MR. PAETZOLD: You indicated 24/7 vessel dispatch
21 service. What does that mean to the vessel operator?

22 CAPTAIN MCISAAC: That means if the needs change,
23 they can change the pilot orders. If the vessel needs
24 to cancel if they are sailing. For instance, whenever
25 they're loading rice upriver, if it starts to rain they

1 just shut down the operation because you can't get rice
2 wet before you put it in the vessel. So -- or
3 typically, the jobs fall back.

4 If we did not have 24/7 dispatch then they
5 would end up having to -- if the job fell back, the
6 pilot would still show up. The pilot would have to
7 sleep somewhere on the vessel and the vessel would incur
8 extra costs because of that.

9 MR. PAETZOLD: How many dispatchers do the San
10 Francisco Bar Pilots require?

11 CAPTAIN MCISAAC: We carry five. There are other
12 pilot groups where they all have daytime dispatchers,
13 boat operators who act as quasi-dispatchers in the
14 evening or in the middle of the night. But we always
15 found that having 24-hour dispatch works in our port.
16 We've got such a large geographic footprint that one
17 change, and that changes the order of the pilot. If we
18 have a lot of land transportation or water
19 transportation to move the pilot to where the vessel is
20 going to be or where the vessel is, there's a lot of
21 logistics involved in just moving the pilots.

22 MR. PAETZOLD: What does the next slide show?

23 CAPTAIN MCISAAC: There's two pilots on the fire
24 truck. No, that's our annual open house in the San
25 Francisco firefighters toy drive. That's something we

1 started after the Apostleship of the Sea closed down
2 because the maritime community really did not have an
3 annual event where everybody got together anymore.
4 Since that time, it has grown into a very nice event.
5 And the cost of admission is a non-wrapped toy. And all
6 of the proceeds from the raffle and stuff and the toys
7 are all donated to the San Francisco firefighters toy
8 guild.

9 MR. PAETZOLD: You made some efforts in the last
10 few years to help reduce the expenses. Can you name a
11 couple of them and how that affected the expenses of the
12 San Francisco Bar Pilots?

13 CAPTAIN MCISAAC: Yes. We had a long term
14 contract with a large land transportation provider.
15 You'll see busses running around the city on a daily
16 basis. They were quite expensive, and so we did an open
17 bid process a couple years ago and we went with a
18 smaller, almost like a startup company. And we actually
19 knew of them from interacting with them on the docks.
20 Some of the agents were using them.

21 And we met with them. Part of the proposal
22 was they did not have the equipment and the staff to
23 ramp up, unless they were going to sign the agreement.
24 So we kind of had a somewhat of a phase in, but we're
25 very happy. Our land transportation expenses dropped

1 significantly, and the service did not. So we're very
2 happy with the service they provide.

3 MR. PAETZOLD: You also mentioned in your
4 declaration some efforts made to improve fuel
5 management. What did you do there?

6 CAPTAIN MCISAAC: Yes. Actually Dave McCloy, our
7 marine operations pilot, he did a -- they did a survey
8 and looked at the overall use of all the vessels and
9 what is the most economical speed. And we instructed
10 crews to reduce the RPM on the vessels. It resulted in
11 a -- I won't say significant - they were already mindful
12 of running at somewhat economical speeds, but it did
13 drop our overall use of fuel at that time.

14 And we also reviewed our food contract. We
15 had a boutique vendor who was very responsive to our
16 needs, but was very expensive. They were based in San
17 Francisco. The cost of food in San Francisco is fairly
18 significant for the small operators. And eventually
19 after ten years we decided that we were going to go with
20 Safeway. It does take more management, but it did
21 result in about a 20 percent decrease in food cost.

22 MR. PAETZOLD: In your declaration, you mention
23 additional transportation costs that are incurred by the
24 continuing professional development program and several
25 other items. Briefly, what is the professional

1 development program?

2 CAPTAIN MCISAAC: That is at the start of a
3 pilot's career. He or she has kind of a step program
4 where they do all the vessels that are assigned to them.
5 But if it is a complex or technically challenging job
6 due to the size of the vessel or for some other reason,
7 we assign a senior pilot who actually has the
8 responsibility for piloting the vessel. But the senior
9 pilot will go and observe the new pilot and has the
10 authority to take the vessel away if he does not feel
11 that the new pilot is doing the job safely. Typically,
12 that does not happen.

13 But it is a program that allows the new
14 pilots to continue to work on the vessels that they
15 train on. It is a six-month step program where the
16 vessels they can do on their own expand every 6 months
17 and after 24 months they do every vessel.

18 MR. PAETZOLD: How does that affect cost to the
19 San Francisco Bay Pilots?

20 CAPTAIN MCISAAC: It does affect cost. Right now
21 there's only four pilots under two years. So we either
22 have to put a senior pilot on the vessel inbound, or
23 take the senior pilot off once the challenging maneuver
24 is over. And typically that's in the vicinity of the
25 city front. So we have to use the boats for that.

1 There are times when we will bring in an
2 outside vendor. We always prefer to make transfers
3 underway with our own boats and our own crews. But
4 there's times where if we have to do a transfer outside,
5 we prefer to use our -- prioritize our crew for that.
6 And we'll bring in an outside vendor at an additional
7 cost.

8 MR. PAETZOLD: You also indicate there are
9 additional transportation costs associated with the
10 E-pilot. We will be discussing e-pilots a little bit
11 later, but can you briefly state what the E-pilot is and
12 how this effects transportation costs?

13 CAPTAIN MCISAAC: E-pilots are electronic pilots.
14 And some jobs due to size and complexity we assign an
15 E-pilot. The E-pilot brings on the pilot mate system.
16 It's independent, very robust and very precise
17 navigation equipment. And we will put them on inside
18 the Golden Gate for inbounds. We will take them off,
19 typically, off the city front for outbound.

20 And there is an additional cost for that,
21 kind of the same thing. There's times when we have to
22 use an outside vendor; and for fuel and crew costs. But
23 it is a system that's working and has allowed us to
24 bring in the ULCVs into Oakland safely.

25 MR. PAETZOLD: With regard to ULCVs, we have a

1 brief video of one arriving. After we see it perhaps
2 you can comment on what that entails to the pilots.

3 VIDEO: "MSC Fabiola she is 157 feet wide."

4 "A massive containership has just made San
5 Francisco Bay history."

6 "That is the biggest ship in North America,
7 and it just come under the Golden Gate."

8 "Media uproar over a record breaking
9 visitor."

10 "Live look at the largest containership ever
11 seen in these waters. The MSC Fabiola, nearly a quarter
12 mile long and as wide as a ten lane freeway. If all of
13 the 12,500 containers were laid end to end they would
14 stretch for 50 miles."

15 "The real challenge is when the Fabiola
16 leaves the Port of Oakland tomorrow. That's when bar
17 pilots will have to turn the ship."

18 "San Francisco bar pilots know these
19 monstrous maritime measurements are just the leading
20 edge of a supersized trend. Dealing with it with
21 special equipment and extra precaution to ensure the
22 safety of both cargo and the environment. The bar
23 pilots navigate over 9,000 ships through these waters
24 annually, but never before something like this."

25 MR. PAETZOLD: What does that indicate about the

1 future challenges of the San Francisco Bar pilots in
2 regards to these ships?

3 CAPTAIN MCISAAC: We're close to the max. When
4 you get up to a 1200-foot ship, we're close to a 1,400
5 to 1,450-foot turning circle. So we're getting close to
6 the max size unless other things are done in the Port of
7 Oakland. The overall limiting factor that really is
8 never going to be changed at least certainly in my
9 career and most likely my lifetime is the Bay Bridge.

10 We've had classes of vessels that we've been
11 contacted about that they wanted to bring in, some even
12 larger vessels but they wouldn't fit under the bridge.
13 That is going to be the limiting factor because they're
14 not only going longer and wider, but they want to go
15 higher as well. As they stack more containers on the
16 deck of the vessels, they have to build the house up
17 higher so they have some visibility.

18 And in that video you can see -- I think
19 Dave is going to talk more about the pilot mate system.
20 You can see the bulk of the pilot mate system and why we
21 do not take the equipment to sea. It would be too hard
22 to try and board a vessel and get that up safely.

23 MR. PAETZOLD: That concludes my questioning of
24 this witness. Thank you.

25 PRESIDENT JOHNSTON: Thank you, Counsel.

1 MR. PAETZOLD: If it is the pleasure of the Board
2 to have cross examination at this time.

3 MR. CICALA: I'm ready if the Board is. Does the
4 Board have any questions they want to go first?

5 PRESIDENT JOHNSTON: Any questions by the
6 Commission?

7 VICE PRESIDENT CONNOLLY: I have questions, but
8 I'd rather wait.

9 PRESIDENT JOHNSTON: Cross examination?

10 MR. CICALA: All right, thank you.

11 PRESIDENT JOHNSTON: Let me ask. Does anyone want
12 to take a break for ten minutes, or do you want to go
13 for another half-hour?

14 MR. CICALA: Whatever the Board prefers. Perhaps
15 the Court Reporter would like to take a break.

16 COURT REPORTER: I'm good to proceed.

17 PRESIDENT JOHNSTON: Thank you.

18 MR. CICALA: Good morning.

19 CAPTAIN MCISAAC: Good morning.

20 MR. CICALA: Let me just ask you a few questions
21 about what you talked about earlier this morning. There
22 were a series of slides listing various expenses of the
23 San Francisco Bar Pilots including expenses relating to
24 the pilots' boats, to the rental of Pier 9, to the pilot
25 crew and to support staff. Those expenses that you were

1 discussing are all encompassed within the stipulated
2 expenses for the pilot surcharge; is that correct?

3 CAPTAIN MCISAAC: Yes. That is correct.

4 MR. CICALA: Now you also mentioned with respect
5 to the continuing professional development program there
6 was an increased cost. What do you mean by that?

7 CAPTAIN MCISAAC: There's an increased cost in
8 transportation. There are times when the pilots are
9 coming from different places if it is sailing. So we
10 may have dual transportation to get the pilot to the
11 ship. And then we have the boat transportation to get
12 the pilot off the ship.

13 And it is somewhat similar on the inbound
14 where the pilot will typically drive into Pier 9. And
15 we will board to the berth, and then the boat will pick
16 them up and put the pilot onto the vessel.

17 MR. CICALA: Again, with respect to the projected
18 expenses, the current expenses and the projected
19 expenses increased through 2019. Additional
20 transportation costs are included in these expenses,
21 right?

22 CAPTAIN MCISAAC: That is true.

23 MR. CICALA: I would ask you, if you don't mind,
24 to turn to Exhibit E of your declaration submitted with
25 the initial petition. Now, this Exhibit E was the

1 expense projections which has subsequently been
2 stipulated to that projects an increase from current
3 expenses of \$13.2 million approximately in 2014 to \$14.8
4 million, roughly, in 2019; is that correct?

5 CAPTAIN MCISAAC: Is this on Page E1 that you're
6 looking at?

7 MR. CICALA: That is on E1, lower right-hand
8 corner.

9 CAPTAIN MCISAAC: Mine is showing \$13.1 million in
10 2014 and \$14.9 in 2019.

11 MR. CICALA: Right. And that was your submission.
12 But subsequently -- let me hand you a copy of this.
13 This is the stipulation that shows what the parties
14 consequently stipulated and agreed to.

15 CAPTAIN MCISAAC: Okay.

16 MR. CICALA: Again, with reference to the lower
17 right-hand corner, do you see the projected expenses
18 which both sides have agreed for San Francisco Bar
19 Pilots will be \$14.8 million in 2019?

20 CAPTAIN MCISAAC: Yes. I see that.

21 MR. CICALA: Then with respect to the 2014
22 expenses to the audited financials which we just
23 received after the petition, that the expenses in 2014
24 were roughly \$13.2 million in 2014; is that correct?

25 CAPTAIN MCISAAC: Yes.

1 MR. CICALA: So what we're looking at over the
2 next four years to 2019 is roughly \$1.6 million total
3 increase in expenses from the current baseline; is that
4 correct?

5 CAPTAIN MCISAAC: Well these -- the expenses in
6 the audit financials, they would include political
7 donations, and the other 60 percent of our lobbyist
8 expenses. That should have been extracted by
9 stipulation in the other expenses.

10 MR. CICALA: Okay. So do you know, roughly, what
11 those amounts are that were extracted by stipulation?

12 CAPTAIN MCISAAC: No, I can't quote that at this
13 point. Looks like it's roughly \$95,000 and \$83,000. So
14 roughly \$180,000.

15 MR. CICALA: Okay. So what we're really looking
16 at then is approximately a \$1.8 million increase in
17 expenses annually as of 2019, correct?

18 CAPTAIN MCISAAC: Yes, yes, that's correct.

19 MR. CICALA: Then I would ask you to refer to your
20 declaration which is Exhibit 1B, paragraph 14.

21 CAPTAIN MCISAAC: Okay.

22 MR. CICALA: In your declaration there you say
23 that the SFBP is seeking a rate increase spread over
24 four years to cover the increased cost to provide pilot
25 service; is that correct?

1 CAPTAIN MCISAAC: Yes.

2 MR. CICALA: In plain terms, the purpose of this
3 petition is to make sure that the stipulated increase in
4 expenses which we've just discussed is roughly \$1.8
5 million is covered dollar for dollar by increased
6 revenue in some way, shape or form. Correct?

7 CAPTAIN MCISAAC: Well, not only the increase in
8 past expenses, but some recovery of the increase in
9 expenses as well. So it is the increased past expenses
10 and the increased future expenses.

11 MR. CICALA: When you say increased past expenses,
12 are you referring to some expenses that were not in some
13 way covered by past revenue?

14 CAPTAIN MCISAAC: Well, they were covered by past
15 revenue. And, you know, it is a pretty simple business
16 model inasmuch as revenue minus expenses equals net
17 income. So the expenses have gone up approximately
18 \$3.3 million since 2006. And we're looking for some
19 recovery of those expenses as well.

20 MR. CICALA: Now in addition to the Port Agent,
21 you're also president of San Francisco Bar Pilots; is
22 that correct?

23 CAPTAIN MCISAAC: Correct.

24 MR. CICALA: And that's a position you've held on
25 at least two separate occasions?

1 CAPTAIN MCISAAC: Three separate occasions.

2 MR. CICALA: For a total of how many years?

3 CAPTAIN MCISAAC: Ten years now. In my 11th out
4 of the last 14.

5 MR. CICALA: Let me refer you to Exhibit 41 of
6 PMSA's response which I'll hand you a copy of, the
7 declaration of John Cinderey submitted in the 2011 rate
8 hearing. Did John Cinderey report to you when he worked
9 at San Francisco Bar Pilots?

10 CAPTAIN MCISAAC: I was not president or port
11 agent in 2011. But when I was, he was.

12 MR. CICALA: What was his position?

13 CAPTAIN MCISAAC: Business director.

14 MR. CICALA: Generally speaking, what did that job
15 entail?

16 CAPTAIN MCISAAC: Overall management of the staff
17 and the financial side of it. John was a banker in his
18 previous life and had a long history in banking and
19 business. So we put him in charge of making sure that
20 we had proper -- we were using proper procedures in all
21 of our reporting.

22 MR. CICALA: Even though he was not reporting to
23 you in 2011, you know he was also in that same position?

24 CAPTAIN MCISAAC: Yes, that's correct.

25 MR. CICALA: Would you please look at the third

1 page of Exhibit 41 which is Exhibit C to Mr. Cinderey's
2 original declaration in 2011. And look at the
3 projection of expenses and revenues in the top row. It
4 is labeled, "SFBP Current Rates." Would you read his
5 projection of anticipated expenses in 2014?

6 CAPTAIN MCISAAC: \$13,198,000.

7 MR. CICALA: Now, turning back to the audited
8 financials for 2014, can you tell us the actual total
9 operating expenses?

10 CAPTAIN MCISAAC: \$13,202,000.

11 MR. CICALA: So sparing me the math, he was
12 99.969 percent accurate in that projection. Let me ask,
13 has the San Francisco Bar Pilots' method of projecting
14 expenses changed since you made those projections in
15 2011, to your knowledge?

16 CAPTAIN MCISAAC: No.

17 MR. CICALA: So in other words the current expense
18 projections which PMSA has stipulated to are product of
19 the same longstanding projection practices and financial
20 controls that are in place in SFBP now, correct?

21 CAPTAIN MCISAAC: Yes.

22 MR. CICALA: So turning back to Mr. Cinderey's
23 projection spreadsheet for 2011 would you please read
24 his total pilotage projection revenues for 2014?

25 CAPTAIN MCISAAC: \$37,022,000.

1 MR. CICALA: So based on SFBP current rates, the
2 next one down was based on that petition, current rates
3 on the top line?

4 CAPTAIN MCISAAC: \$34.9 million per 2014 was the
5 projection.

6 MR. CICALA: That was based on the current
7 pilotage rates that were in place?

8 CAPTAIN MCISAAC: Yes.

9 MR. CICALA: Those rates did not, in fact, change
10 after that?

11 CAPTAIN MCISAAC: That's correct.

12 MR. CICALA: Now, please refer back to the 2014
13 audited financials. Could you please read the actual
14 bar pilotage revenues for 2014?

15 CAPTAIN MCISAAC: \$39.7 million.

16 MR. CICALA: So that's approximately \$5 million
17 off in projected revenues. Is that a fair statement?

18 CAPTAIN MCISAAC: Yes.

19 MR. CICALA: Do you have any explanation why his
20 revenue projections for 2011 turned out to be so
21 inaccurate?

22 CAPTAIN MCISAAC: Well, I was not that involved
23 with the rate case in 2011. But I assume they were
24 assuming flat moves, flat GRT. And frankly 2014 was a
25 stronger year than anticipated. Stockton had a record

1 year, Redwood City had a record year. And the industry
2 prospered. And when industry does well, we do well.
3 When industry suffers, we suffer right along with it
4 like we did for the first couple months of this year.

5 MR. CICALA: So when you say flat GRT, can you
6 explain what you mean by that?

7 CAPTAIN MCISAAC: Well, gross registered ton is
8 the main component of our billing. As per law, a gross
9 registered ton represents the interior capacity of the
10 vessel. 100 cubic feet equals one gross registered ton.
11 So the larger the vessel, the more the vessel pays in
12 pilotage fees.

13 MR. CICALA: And that's based on the way the rate
14 is structured, in other words? The larger -- even
15 though the rate stays the same, if GRT grows that
16 generates additional revenue for SFBP?

17 CAPTAIN MCISAAC: Yes. If GRT grows, that's one
18 of the components we look at.

19 MR. CICALA: Referring you to Exhibit 5 of the
20 PMSA that shows total GRT and average GRT. Would you
21 say that number captures the phenomenon of increased GRT
22 over that time period?

23 CAPTAIN MCISAAC: Yes. I haven't checked these
24 numbers, but they look representative.

25 MR. CICALA: Do you know if SFBP's current

1 projections and financials we're relying on for this
2 petition is accounting for any growth of the GRT?

3 CAPTAIN MCISAAC: I do not believe so.

4 MR. CICALA: So referring back now to the 2014
5 annual audited financials established, the overall
6 pilotage revenues in 2014, I believe you said they are
7 \$39,754,000 give or take.

8 CAPTAIN MCISAAC: Yes.

9 MR. CICALA: So rounding that to the nearest
10 million, and I'm going to ask that basically -- let's
11 look at the petition's requested rate increases. Would
12 you agree that the five percent increase that is being
13 requested by San Francisco Bar Pilots in the first year
14 would yield an additional \$2 million in revenue in 2016?

15 CAPTAIN MCISAAC: Yes.

16 MR. CICALA: Approximately. And we're not going
17 to compound these. I'm just going to just sort of
18 offset that it is just short of a quarter million
19 dollars that we're talking about. That would yield an
20 additional \$2 million on top of that in 2017, correct?

21 CAPTAIN MCISAAC: Correct.

22 MR. CICALA: Then the four percent offered in 2018
23 would yield another \$1.6, correct?

24 CAPTAIN MCISAAC: Yes.

25 MR. CICALA: Then for 2019 yet another \$1.6

1 million, correct?

2 CAPTAIN MCISAAC: Yes, assuming GRT stayed the
3 same.

4 MR. CICALA: So the petition seeks all things
5 being equal, and with GRT not rising at all on
6 approximate increase of \$7.2 million by the time we get
7 to 2019, correct?

8 CAPTAIN MCISAAC: I didn't do the math, but I'll
9 rely on your skills.

10 MR. CICALA: Thank you. Then based on -- let me
11 just ask you another simple math question \$7.2 million
12 is significantly more than a \$1.8 million increase in
13 expenses, correct?

14 CAPTAIN MCISAAC: Yes. It certainly is more than
15 the \$1.8 million projected expense, yes.

16 MR. CICALA: If the purpose of the petition is to
17 cover the increased expenses that are being projected,
18 why is such a large rate being sought in this petition?

19 CAPTAIN MCISAAC: Well, it is not only the
20 projected. Like I said, we're looking for some recovery
21 of the growth in the past expenses, and also we're
22 looking to fund new E-nav equipment which is to the tune
23 of somewhere between \$1 million and \$1.5 million.

24 MR. CICALA: So what is the amount of the past
25 expenses you're seeking and you recapture?

1 CAPTAIN MCISAAC: That part we're going to leave
2 to the collective wisdom of this Board to determine.

3 MR. CICALA: Is there anywhere in looking in the
4 petition or submissions to find out how much you're
5 looking for?

6 CAPTAIN MCISAAC: No, no. We do have the actual
7 financials in the petition that shows the increase in
8 the ever growing increases in the expenses.

9 MR. CICALA: That's the same financials reflected
10 in the ever growing increase in revenue. Isn't that
11 fair to say?

12 CAPTAIN MCISAAC: No. Revenue has gone down.
13 Overall, if you take probably a 5-year average, yes, it
14 does continue to grow. But as you know, shipping is
15 very cyclical and we do get affected during recessions
16 or slowdowns.

17 MR. CICALA: On a permanent basis, isn't it fair
18 to say, it has always increased?

19 CAPTAIN MCISAAC: Well, in your petition you note
20 over the last 20 years the revenue per vessel has always
21 gone up. What you failed to note was that in 11 of
22 those 20 years there were rate increases. If we go back
23 thirty years, I think there would be rate increase in 21
24 of those 30 years.

25 MR. CICALA: But what I'm asking you about is

1 during the years where you're saying that there were
2 expenses that you're seeking to recoup now, you point
3 back to the revenues for the years the GRT increase was
4 greater than the expenses. Isn't that fair to say?

5 CAPTAIN MCISAAC: I'd have to look at the numbers
6 to determine that.

7 MR. CICALA: Let me show you Page 31 of PMSA's
8 petition. In particular, the projections of increased
9 revenue based on 0 rate increase and a continuation of
10 trending vessel growth. Do you have any reason to
11 disagree with those projections?

12 CAPTAIN MCISAAC: Let's go over the first one
13 first. I did not pay a lot of attention to this, just
14 because I had other stuff going on at the time. Can you
15 just walk me through this?

16 MR. CICALA: Sure. So with reference to the first
17 projection, based on Exhibit 40 which projects growth
18 based on historical increase in vessel size.

19 CAPTAIN MCISAAC: Just so I understand, this is
20 taking the 2006 to 2014 average growth of 2.1 percent
21 and applying that to 8,390 moves?

22 MR. CICALA: That's correct.

23 CAPTAIN MCISAAC: I'm sorry, can you restate the
24 question?

25 MR. CICALA: The question is if you have any

1 reason to disagree with those projections?

2 CAPTAIN MCISAAC: Well, they are projections. I
3 don't have any reason to disagree with them; they seem
4 to be the average. What we have seen, it seems like
5 certainly as the ULCVs increase in number, we get less
6 calls on Oakland.

7 The other ports are pretty much maxed out on
8 the size of the vessels. We may have had some GRT
9 growth in both Stockton and -- I don't mean strictly GRT
10 growth by the number of vessels. We had some growth
11 there as well, but also the GRT vessels are pretty much
12 maxed out in size in both Stockton and Sacramento.

13 The oil terminals, there really hasn't been
14 any growth there for a long time. Everybody runs it at
15 almost full capacity almost all the time. So you do
16 notice that in the last number of years the growth does
17 seem to have slowed down.

18 MR. CICALA: But there's still a trend of growth
19 particularly within the number of ULCVs?

20 CAPTAIN MCISAAC: Yes.

21 BOARD COUNSEL EAGAN: You have five minutes left
22 on your cross, Mr. Cicala.

23 MR. CICALA: Thank you.

24 So if you assume even the lesser of these
25 two trends, do you see that the growth in GRT would

1 yield an additional \$3.2 million additional revenue in
2 2019?

3 CAPTAIN MCISAAC: That's the second table?

4 MR. CICALA: That's the second table, the lesser
5 of the two which only projects growth in the ULCV
6 revenues.

7 CAPTAIN MCISAAC: Okay. That is what it shows,
8 yes, that increase.

9 MR. CICALA: Thank you. I have no further
10 questions.

11 MR. PAETZOLD: Point of order. Should we be given
12 an opportunity to redirect, or should we wait until the
13 commissioners have had a chance to ask questions?

14 BOARD COUNSEL EAGAN: Do the commissioners prefer
15 to wait and proceed with redirect first?

16 VICE PRESIDENT CONNOLLY: No, counsel can go ahead
17 as far as I'm concerned.

18 MR. PAETZOLD: Thank you. Captain McIsaac, with
19 regards to the --

20 PRESIDENT JOHNSTON: I don't know if he's -- are
21 you finished?

22 MR. CICALA: Yes.

23 MR. PAETZOLD: With regards to the experience of
24 the pilots and the growth of GRT both in tonnage to the
25 Port of Oakland, what has been the experience in terms

1 of whether the growth rates in tonnage have in fact
2 grown or not grown in Oakland?

3 CAPTAIN MCISAAC: No. 2011 is when we first
4 started to get the ULCVs. At that time I believe we had
5 2,100 arrivals in the Port of Oakland. In 2014 I
6 believe it was 1,740 arrivals in the Port of Oakland.
7 And GRT was essentially flat in 2011 and 2014. And that
8 shows that as the capacity is staying relatively the
9 same, but the number of vessels is going down in
10 Oakland.

11 MR. PAETZOLD: With regards to the expense
12 projections, if you take a look at Exhibit E, the
13 revised one, the one that was agreed to by industry. Do
14 you have a copy of that?

15 CAPTAIN MCISAAC: No, I don't.

16 MR. PAETZOLD: Okay. At the bottom of the cover
17 page projections it says, "This is a summary of SFBP's
18 expenses projections from 2015 to 2019. These
19 projections are intended to cover normal operating costs
20 but do not include projected costs for extraordinary
21 equipment failure, substantial repairs to Pier 9, or for
22 upgrading navigation technology equipment."

23 With regards to substantial repair to Pier
24 9, what is SFBP's obligation to maintain that pier?

25 CAPTAIN MCISAAC: We entered into a settlement

1 with the Port of San Francisco, our landlord, some years
2 ago after we split a major repair of the apron. As part
3 of that settlement, we are responsible for all apron
4 maintenance going forward.

5 MR. PAETZOLD: What is the current condition of
6 the south side apron?

7 CAPTAIN MCISAAC: Well the larger, heavier pilot
8 boats have taken their toll on the pier. And what's
9 happening, as everybody knows, the apron is kind of the
10 buffer that was built in the old days to protect the
11 concrete pier. It is made out of wood. So it stands on
12 wooden piles and has some battered piles at an angle.

13 And what is happening, due to the weight of
14 our ocean class boats the face is starting to pull away
15 from the apron. And if you walk out there you can see
16 it by the cracks of the asphalt. We brought in Moffatt
17 Nichol to do an engineering study. They have put
18 together a potential solution, and we have put that out
19 to bid at this point.

20 MR. PAETZOLD: Do you have an estimate as to what
21 those costs are going to be?

22 CAPTAIN MCISAAC: No. I believe the last repair
23 was \$800,000. We don't expect this to be that much
24 because it is not going to be on the whole apron, just
25 one of the three sides.

1 MR. PAETZOLD: One of the questions that counsel
2 for PMSA asked you had to do with pilot boat surcharge.
3 What does that surcharge cover?

4 CAPTAIN MCISAAC: The surcharge covers acquisition
5 costs of new pilot vessels. And prior to 2000 if you're
6 looking at revenue, those revenues included built in.
7 There was no pilot boat surcharge. Those expenses were
8 included in the rate.

9 In probably 1999 when we were starting to
10 replace the offshore station both at that point industry
11 suggested we go to a surcharge system. And I think it
12 has served both sides well. And I think the surcharge
13 for the pilotage boats is one of the reasons why we have
14 rate hearings few and far between.

15 MR. PAETZOLD: You mentioned in your declaration,
16 the ILWA-PMA labor dispute and you recently provided an
17 update to the Board with regards to the effect on SFBP
18 revenues. First of all, what is the status, if you
19 know, of the ratification of the ILWU contract?

20 CAPTAIN MCISAAC: It has not been ratified yet.
21 They started the process, I believe, this week. They
22 are caucusing, and then the caucus makes a
23 recommendation to the general membership. And I believe
24 I read that they expect a vote in mid April to hopefully
25 ratify it.

1 MR. PAETZOLD: Have you determined any effects
2 from the Port of Oakland as compared to the long term
3 effects on West Coast ports and on shipping to the Port
4 of Oakland as a result of that dispute?

5 CAPTAIN MCISAAC: No. I think the Port of Oakland
6 is concerned like almost every other port on the West
7 Coast to the long term effect. The reputation of the
8 West Coast ports have been hurt by the this slowdown,
9 shutdown, whatever you want to call it. No one really
10 seems to know if all the business is going to come back
11 or how it is going to effect growth in the future.

12 MR. PAETZOLD: That's the extent of my redirect.
13 Thank you.

14 VICE PRESIDENT CONNOLLY: Thank you.
15 Mr. President, is it okay to ask questions now?

16 PRESIDENT JOHNSTON: Yes.

17 VICE PRESIDENT CONNOLLY: Thank you, Captain
18 McIsaac, for that presentation. I want to also take the
19 opportunity to thank both sides for their comprehensive
20 petition and response. I think it was a fast reading
21 assignment. But I read every word, some of them twice,
22 and I learned an awful lot. So thank you both very much
23 for that. I guess I'm glad I waited because a lot of
24 questions I had were already asked.

25 One of the things that is of interest to me

1 is the ULCV discussion and the restrictions and the
2 growth on GRT. It was occurring to me as I was reading
3 that there has to be a leveling off at some point of
4 GRT. And, in fact, that's reflected in the graph that
5 counsel pointed to at some point. But to mention some
6 of the restrictions like air draft on these very large
7 ships. But isn't the real problem water depth and
8 draft? We have channels that fail major dredging
9 projects be controlled for the future, right?

10 CAPTAIN MCISAAC: It is close to maxed out. They
11 are at 50 feet in Oakland. The problem becomes if you
12 go more than 50 feet then you have issues near the
13 Alcatraz shoal, you have issues with the bar channel.
14 And the I don't see bar channel ever getting dredged
15 deeper than 55. So, yes I would agree that at a certain
16 point that the depth of the channel becomes an issue.

17 VICE PRESIDENT CONNOLLY: Thank you. In your
18 declaration in paragraph nine you talked about -- it
19 says that the Bay Area has zero tolerance for piloting
20 incidents. Since the Cosco Busan pilots are faced with
21 possible criminal prosecution. I think that was what
22 was referred to in your opening brief as a risk
23 discussion, an increase in risk. Is that how you meant
24 that paragraph, or is that speaking to something else?

25 CAPTAIN MCISAAC: No. There is an increase in

1 risk there. I'm not saying that everybody is concerned
2 about going to jail, but for the first time ever, at
3 least in the Bay Area, a pilot did go to jail. You
4 know, I was thinking about this last night.

5 But going back to the Exxon Valdez, you
6 know, I worked in Valdez from '79 to '85. Then as a
7 port captain down here they sent me back up there during
8 the cleanup. In that spill, 11 million gallons were
9 spilled. You know, great carnage on the environment of
10 Prince William Sound.

11 So I knew the reef. I used to keep a boat
12 in Valdez and fish in the summers. So I went up there
13 during the cleanup numerous times and spent a total of
14 about 6 weeks up there. You know, just really seeing
15 the spillage on Prince William Sound was amazing, but
16 nobody went to jail.

17 And, you know, fast forward 16, 17 years
18 later you got the Cosco Busan, 54,000 gallons which you
19 really couldn't see much evidence of after a week or
20 two. And granted, you know, John Cota should have been
21 held accountable most definitely, but he should not have
22 gone to jail. I mean, he was trying to do his job. So
23 that kind of changed the risk profile of piloting.

24 The Bay Area is unique onto itself. You
25 spill oil in Houston and you raise the octane level in

1 the Houston ship channel. Here, it is a terrible
2 consequence. It is certainly more stressful. The
3 vessels have gotten much larger even since the Cosco
4 Busan on average, and it is a concern.

5 VICE PRESIDENT CONNOLLY: Thank you. You had
6 mentioned that the pilot development program and E-pilot
7 adds to costs. Those are not offset by anything, no
8 surcharge or anything that pays for those, right?

9 CAPTAIN MCISAAC: That's correct.

10 VICE PRESIDENT CONNOLLY: Those are entirely for
11 maritime safety, you're putting two pilots on in certain
12 situations with inexperienced pilots. That's a safety
13 judgment that you're making?

14 CAPTAIN MCISAAC: That's correct.

15 VICE PRESIDENT CONNOLLY: You had other reductions
16 in costs according to the stipulated financials. I
17 think there's a reduced staff; is that right?

18 CAPTAIN MCISAAC: Well, we had an overlap of staff
19 for one year when we hired Ray Paetzold as our general
20 counsel, and then John Cinderey upon his retirement.
21 Ray inherited that, as well.

22 VICE PRESIDENT CONNOLLY: Okay. At one point I
23 think it was in Ray's brief, a petition that it was
24 mentioned that a 30 percent drop in revenue could result
25 in a 50 percent drop in net income. Can you explain how

1 that would work?

2 CAPTAIN MCISAAC: Sure. Our expenses run roughly
3 a third of revenue. So when you get a 30 percent drop
4 in revenue you pretty much cut the other two thirds in
5 half. It obviously has had a great effect. We are in a
6 recovery mode during the month of March, and we expect
7 overall the quarter to be down about 18 percent.

8 VICE PRESIDENT CONNOLLY: Thank you. I won't talk
9 about the Pier 9 repairs because that is also left out
10 of the projection, and you weren't able to put a number
11 on it, but there's probably expense there.

12 You also had to leave out equipment repairs.
13 But isn't it true you can't predict a breakdown in
14 equipment, and I assume by equipment you mean mostly
15 boats, right?

16 CAPTAIN MCISAAC: Correct.

17 VICE PRESIDENT CONNOLLY: So you can't use that as
18 a projection because you can't foresee the future. But
19 what's been the past with regard to the operation of the
20 pilot boats and the repairs that are necessary?

21 CAPTAIN MCISAAC: Well, the boats and the engines
22 are expensive. We did have a vessel, or one of the main
23 engines on one of the station boats -- I don't remember
24 which one -- did suffer a major casualty a couple of
25 years ago. We do have insurance to cover some of that

1 cost, but I believe our deductible is \$25,000.

2 VICE PRESIDENT CONNOLLY: There has also been some
3 discussion about increasing costs around a tech upgrade.
4 Maybe should I wait for captain McCloy to ask about
5 that.

6 I have no further questions.

7 PRESIDENT JOHNSTON: Any other commissioners have
8 questions?

9 COMMISSIONER SCHMID: Thank you. Captain McIsaac,
10 Commissioner Connolly actually asked a question I had
11 for you about the e-pilots and if any of those expenses
12 are passed along to the shippers -- which sounds like
13 there isn't -- to put an extra pilot as well as just
14 just providing safety precaution. I did have a question
15 as far as an increase in E-pilot use.

16 With an increase in the ULCVs coming in, do
17 you anticipate any staffing or pilot supply issues
18 because of the two pilots on one ship?

19 CAPTAIN MCISAAC: No, not at this point. And part
20 of it is because the number of vessel calls in Oakland
21 has gone down somewhat as the smaller vessels are
22 replaced by larger vessels. So we only use them
23 typically on one half, either on the arrival if they're
24 going to turn or on the sailing. The really large ones
25 which we probably need to come up with a new name at

1 this point, they use an E-pilot in both, on the inbound
2 outbound and inbound regardless of whether they turn.
3 But right now they're a relatively small percentage of
4 UCLVs.

5 COMMISSIONER SCHMID: Another question just
6 clarifying some numbers, really, regarding Exhibit E.
7 In your projection, question about change from -- the
8 2015 number has changed from 2014. Pilot office and
9 dispatch expenses, terminal expenses, you're projecting
10 a decrease there, 9.4 percent and 6.7 percent. Just
11 curious, what would cause those changes or those
12 decreases?

13 CAPTAIN MCISAAC: I believe for the pilot office
14 that would be because in 2015 John Cinderey, our former
15 business director, retired at the end of last year. So
16 I believe that would be -- yes, that sounds about right.
17 That would be about the 9 percent decrease.

18 COMMISSIONER SCHMID: And then the terminal
19 expenses?

20 CAPTAIN MCISAAC: I'm not sure why the terminal
21 expenses are going down that much. Actually, yes I am.
22 The rent is going down. We're enjoying the 20 percent
23 decrease for five years. Actually, it is more like
24 17 percent decrease because they raised it by 3 percent
25 and dropped it by 20 percent.

1 COMMISSIONER SCHMID: Okay, thank you. One more
2 question. In regard to tab number six of the PMSA,
3 binder, it shows an increase -- from 2006 to 2014, with
4 an increase in fees per move. However, if you look
5 further back, for example, 2002 and forward it is
6 cyclical. You know, it goes from \$8,000 up to \$9,000,
7 \$10,800 in 2006. My question is, do you anticipate even
8 though we're on an downward trend it could go back up,
9 number of moves in the Bay?

10 CAPTAIN MCISAAC: It could. And we did see growth
11 in a couple of segments of our business last year. But
12 for the most part, they're fairly mature businesses.
13 Some of them will depend on the Port of Oakland going
14 forward. There is room for expansion there. Stockton
15 is, you know, remarkably busy these days. So I think
16 they are probably going to have another record year this
17 year.

18 COMMISSIONER SCHMID: Thank you, Counsel. That's
19 all.

20 PRESIDENT JOHNSTON: Commissioner Long?

21 COMMISSIONER LONG: Captain, I have a few
22 questions for you. One of your first questions during
23 cross examination was about pilot vessel surcharge. I
24 kind of lost track of that. To clarify for me, the
25 expenses listed in the projections as well as in

1 Exhibit E, and the expenses going backwards and in
2 Exhibit A. Are any of those expenses recovered through
3 a surcharge that you're aware of?

4 CAPTAIN MCISAAC: No.

5 COMMISSIONER LONG: Okay. So those expenses are
6 extracted from net revenue without recovery through
7 statutory surcharge?

8 CAPTAIN MCISAAC: That's correct.

9 COMMISSIONER LONG: Okay, thanks. Just wanted to
10 clear that up for myself. Another thing you mentioned
11 was in 2011 the ULCVs started to show up here. But at
12 some point you observed another trend which was as those
13 vessels started to call on this port and also as they
14 started to call in increasing numbers, that you observed
15 a drop in actual calls in Oakland or a drop in GRT in
16 Oakland. Can you revisit that for me a little bit, or
17 elaborate for me a little bit, if possible?

18 CAPTAIN MCISAAC: Yes. In 2011 we had 17 ULCV
19 arrivals, and we had 2,100 total, in total arrivals to
20 Oakland. And that was approximately 115 million GRT.
21 And there was less than two percent of the total
22 arrivals for ULCVs. In 2014 we had 167 ULCVs for a
23 total arrivals 1,740 and the GRT into Oakland was
24 111 million, almost 112 million. So actually about a 3
25 million drop in total GRT in Oakland.

1 COMMISSIONER LONG: Okay. Let me see if I got
2 that right. In 2011, 17 ULCVs out of a total number of
3 calls were 20 --

4 CAPTAIN MCISAAC: 2,101.

5 COMMISSIONER LONG: 2,101. Then in 2014, 167
6 ULCV, total vessel calls 1,740?

7 CAPTAIN MCISAAC: Yes.

8 COMMISSIONER LONG: Are ships being taken out of
9 the string, or what is happening here?

10 CAPTAIN MCISAAC: That's what it shows. The
11 capacity is about the same, but the number of vessels is
12 fewer.

13 COMMISSIONER LONG: Thanks. You also mentioned
14 other areas of the SFBP's operation, other types of
15 ships, tank vessels, bulk carriers. Were there any
16 substantial trends that you observed there?

17 CAPTAIN MCISAAC: I did mention that both Stockton
18 and Redwood City had record years. Those are mainly
19 bulk vessels. Tankers have remained fairly static over
20 the years just because the terminals run at close to
21 full capacity anyway.

22 COMMISSIONER LONG: Okay. Those are all the
23 questions I have. Thank you.

24 PRESIDENT JOHNSTON: Thank you. At this point,
25 I'm going to call a recess. Any chance you want to go

1 to lunch, let's resume at 12:30.

2 (Whereupon a recess was taken for lunch.)

3 PRESIDENT JOHNSTON: I'm going to open the
4 hearing. It is 12:30. Mr. Livingstone, do you have
5 questions?

6 COMMISSIONER LIVINGSTONE: Yes.

7 PRESIDENT JOHNSTON: I would admonish you to
8 please speak in the microphone so the Stenographer can
9 hear you.

10 COMMISSIONER LIVINGSTONE: Captain McIsaac,
11 getting back to your testimony, you mentioned flat tows
12 in the Port of San Francisco and the greater Bay, dry
13 dockings. So my question is what are flat tows, for the
14 record? What are we talking about?

15 CAPTAIN MCISAAC: I don't think I mentioned dry
16 docking, but that typically is a flat tow as well. A
17 flat tow is when a vessel has no power or rudder. And
18 frequently it is what we call a skeleton crew to handle
19 lines. And so we use additional tug power to move that
20 vessel and to act as both the powerboat and the rudder.

21 COMMISSIONER LIVINGSTONE: Is there a source for
22 this flat tow? Is this just vessels break down and use
23 flat tow ships? What is the source of the movement?

24 CAPTAIN MCISAAC: Well, that has happened where a
25 vessel has broken down and they do not want to put a

1 full crew on it, and we will flat tow it from a berth.

2 But for the most part, most of the flat tows are in and
3 out of the dry dock, or from the reserve fleet up near
4 Benicia.

5 COMMISSIONER LIVINGSTONE: Without trying to pin
6 you down, do you know how many reserve fleets are in the
7 United States?

8 CAPTAIN MCISAAC: Two.

9 COMMISSIONER LIVINGSTONE: How many pilot groups,
10 roughly, in the United States, Captain McIsaac?

11 CAPTAIN MCISAAC: 26, 28.

12 COMMISSIONER LIVINGSTONE: 26 pilot groups in the
13 United States, two reserve fleets requiring these flat
14 tow's specialized movement in and out of dry dock.
15 Okay. And dry docking, is this a normal activity --
16 would this be considered in the average course of the
17 pilot's duty considered in the everyday average event,
18 or is this unusual?

19 CAPTAIN MCISAAC: Typically they are specialized.
20 And we assign a pilot to it early so that he can work
21 with the dry dock and the tug company to make sure he
22 has the right tools to do the job safely.

23 COMMISSIONER LIVINGSTONE: Would it be safe to say
24 that not every pilot group in the country does dry
25 docking?

1 CAPTAIN MCISAAC: Yes. Well, obviously some pilot
2 groups in their jurisdiction don't have dry docks.
3 That's safe to say.

4 COMMISSIONER LIVINGSTONE: You also mentioned
5 ocean boat. What is that referring to, ocean boat
6 refers to -- not trying to lead you here -- but an ocean
7 station, is that what you're talking about?

8 CAPTAIN MCISAAC: Yes. Our ocean station is 11
9 miles west of the Golden Gate.

10 COMMISSIONER LIVINGSTONE: You said there are 26
11 or 28 pilot groups in the United States, roughly?

12 CAPTAIN MCISAAC: Yes, roughly.

13 COMMISSIONER LIVINGSTONE: Just roughly, how many
14 ocean stations then out of that 26 to 29 ocean stations
15 being the point of embarkation and debarkation of
16 arriving vessels?

17 CAPTAIN MCISAAC: I believe only three. Sandy
18 Hook, Columbia Bar and San Francisco.

19 COMMISSIONER LIVINGSTONE: So again a very small
20 number of pilot groups in the United States that have
21 ocean station?

22 CAPTAIN MCISAAC: Correct.

23 COMMISSIONER LIVINGSTONE: Of course that brings
24 with it, as you already stated, significant logistical
25 expenses as well as safety issues for pilots. Do pilots

1 lose their lives when they go around the world? I mean,
2 these ocean stations, in your view, is it more dangerous
3 than a typical station that would send a boat out from a
4 dock?

5 CAPTAIN MCISAAC: No, it is more dangerous.
6 Worldwide there are casualties almost every winter.

7 COMMISSIONER LIVINGSTONE: You mentioned that the
8 second pilot is provided for safety reasons free, no
9 charge for the second pilot on the ultra large container
10 ships. Do you know of any other pilot groups in the
11 United States --

12 I should establish that you are a member of
13 the APA.

14 CAPTAIN MCISAAC: Yes.

15 COMMISSIONER LIVINGSTONE: What position do you
16 hold?

17 CAPTAIN MCISAAC: Pacific Region Vice President,
18 so I represent all the pilot stations on the West Coast.

19 COMMISSIONER LIVINGSTONE: So you have some idea
20 of pilot operations around the country?

21 CAPTAIN MCISAAC: Yes.

22 COMMISSIONER LIVINGSTONE: Do you know of any
23 other pilot group around the United States that provides
24 second pilots free of charge?

25 CAPTAIN MCISAAC: No.

1 COMMISSIONER LIVINGSTONE: No more questions.

2 PRESIDENT JOHNSTON: Any other questions?

3 COMMISSIONER SCHNEIDER: Captain McIsaac, my
4 question rare in regards to items 13 and 14 in your
5 petition. And the first one has to do with upgrading
6 the navigational technology equipment. Just curious, it
7 seems to me that the upgrade of that equipment is a
8 fixed cost, but it is being tied to a variable number as
9 far as funding goes. A percentage of GRT essentially
10 can go up and down to pay for a fixed cost. So just
11 wondering what the logic is of including that in the
12 expenses was in that particular way?

13 CAPTAIN MCISAAC: Well, it can be a fixed -- it
14 can be a one time cost, every 4 to 5 years. Or it seems
15 like the models these days are moving towards a lease
16 arrangement. And, you know, the hardware portion of the
17 equipment like any laptop or tablet is good for 4 to
18 5 years. And that's as fairly robust tablet or laptop,
19 not the one you use at the office, typically.

20 So we either include it as an ongoing
21 expense; or, you know, we did have a surcharge when we
22 initially purchased these in 2008. That surcharge
23 expired, I believe, at the end of 2010. But that
24 was -- it was for the acquisition cost of those units
25 back then.

1 COMMISSIONER SCHNEIDER: Right. So even if the
2 two choices are buying the unit and providing some type
3 of IT support, or going with a lease which would be a
4 certain amount that you would pay on a monthly basis.
5 But the intent is to pay for that with a percentage of
6 the overall tariff?

7 CAPTAIN MCISAAC: Correct.

8 COMMISSIONER SCHNEIDER: The second question was,
9 you know, looking at the expenses and everything else
10 kind of going back at the years and the expenses that
11 you outlined in item 13. I know the expense amount has
12 changed, but there has always been kind of a certain
13 percentage of the entire revenue. If you minus out the
14 navigation technology equipment and the work to Pier 9,
15 is there really anything else that you foresee in the
16 future that would change that particular ratio?

17 I mean, you know, you're running boats more,
18 maintenance is based on hours and usage and everything
19 else. And the ratio has been kind of good, I think, if
20 you go back at least ten years. Do you see any change
21 to that ratio moving forward?

22 CAPTAIN MCISAAC: Well, no. I think we've been
23 fairly good at forecasting our expenses. A lot of them
24 are fixed; they're tied to collective bargaining
25 agreements. Those we can project out. Obviously

1 medical has been a variable, but I think it has been for
2 everybody.

3 Fuel is one that is hard to get a handle on.
4 We can do what we can to reduce the use, but we have no
5 control whatsoever over the price. So overall I'd say
6 that that ratio should remain relatively intact.

7 COMMISSIONER SCHNEIDER: Thank you. That's it for
8 me.

9 PRESIDENT JOHNSTON: Thank you. Any other
10 questions by Commissioner, Counsel?

11 MR. CICALA: We would request for a short recross
12 on a new matter that came up on redirect.

13 PRESIDENT JOHNSTON: Go ahead.

14 MR. CICALA: Captain McIsaac, you spoke before
15 lunch about ULCVs and total arrivals in Oakland 2011 and
16 2014. What was your source of information for that?

17 CAPTAIN MCISAAC: It was our billing records, and
18 they were crosschecked against marine exchange records.

19 MR. CICALA: And could I ask you to refer
20 to -- well, let me just step back.

21 You were referring to some piece of paper
22 when you were answering those questions, correct?

23 CAPTAIN MCISAAC: That's correct.

24 MR. CICALA: Can you tell me what the total GRT
25 was for the ULCV arrivals in 2011?

1 CAPTAIN MCISAAC: Looks like 18.7 million, I
2 believe.

3 MR. CICALA: That's in 2011?

4 CAPTAIN MCISAAC: Yes.

5 MR. CICALA: With respect to 2014, can you tell me
6 the GRT for the ULCV arrivals?

7 CAPTAIN MCISAAC: Looks like 20 million.

8 MR. CICALA: Looking back to 2011, I think you
9 just said 18 million. Is that 1.87 million?

10 CAPTAIN MCISAAC: Yes.

11 MR. CICALA: And with respect to 2011 total
12 arrivals, can you tell me what the total GRT is or was?

13 CAPTAIN MCISAAC: I'm sorry, 2011 total arrivals?

14 MR. CICALA: Yes.

15 CAPTAIN MCISAAC: For Oakland it looks like 115,
16 115 million.

17 MR. CICALA: And with respect to 2014, can you
18 tell me the GRT for ULCV?

19 CAPTAIN MCISAAC: (Assuming the question was total
20 GRT for 2014) 111 million.

21 MR. CICALA: Nothing further.

22 PRESIDENT JOHNSTON: Mr. Paetzold, you want to
23 continue?

24 EXAMINATION OF CAPTAIN McCLOY:

25 MR. PAETZOLD: Thank you. The Pilots call Captain

1 McCloy.

2 Good afternoon, Captain McCloy.

3 CAPTAIN MCCLOY: Good afternoon.

4 MR. PAETZOLD: The Commission is already familiar
5 with your background as it is in your declaration.

6 Briefly, what types of navigation technology do the San
7 Francisco Bar Pilots use?

8 CAPTAIN MCCLOY: There two components to our
9 NavTech equipment. One is our portable pilot units that
10 we take on all our work, and the other is the pilot mate
11 system which we use on our ULCVs.

12 MR. PAETZOLD: What is required of the pilots as
13 far as the portable pilot unit is concerned?

14 CAPTAIN MCCLOY: Regulations require that all
15 pilots carry PPUs unless it is an unacceptable safety
16 hazard.

17 MR. PAETZOLD: What kind of information is that
18 PPU used to provide to the pilots?

19 CAPTAIN MCCLOY: Position, course and speed, chart
20 details, and also AIS information which is information
21 about other commercial vessels in your area.

22 MR. PAETZOLD: What does AIS stand for?

23 CAPTAIN MCCLOY: Automated information system.

24 MR. PAETZOLD: Next slide. Can you describe the
25 components of a portable pilot unit?

1 CAPTAIN MCCLOY: This is a typical PPU, a laptop
2 with electronic chart software. There's an interface
3 cable between the PPU and the ship's pilot plug. Also,
4 for some ships it is useful to have a wireless
5 connection configuration of the bridge. AIS pilot plug
6 is where the ship gives the pilot the navigation data.

7 MR. PAETZOLD: So the pilot plug connects your
8 portable pilot unit to the ship's information system?

9 CAPTAIN MCCLOY: That's correct.

10 MR. PAETZOLD: We have a screen shot that shows
11 the kind of information onsite.

12 CAPTAIN MCCLOY: So it is basically a decisions
13 support tool. We use our eyes, our echo sounder, VHF.
14 We use a lot of tools. And the PPU is another one that
15 we use.

16 MR. PAETZOLD: I think you already covered the
17 interface of the ship's operation system.

18 CAPTAIN MCCLOY: Yes.

19 MR. PAETZOLD: And the kind of information it
20 provides. Where on the ship typically is the portable
21 pilot unit?

22 CAPTAIN MCCLOY: We usually have it on the primary
23 conning position which is forward usually by the
24 gyrocompass. It can sometimes be asked by radar or in
25 another spot, that's where the wireless connection plugs

1 in.

2 MR. PAETZOLD: Is this a screen shot of your
3 portable pilot unit?

4 CAPTAIN MCCLOY: It is. It's a ship rounding New
5 York Point, and the PPU gives us several things: Our
6 heading, our course, or speed, course overground, the
7 position and orientation of the vessel. It can also
8 give us ETAs along the route, water depth, all the
9 standard chart information. And importantly it gives us
10 the position course and speed of other vessels around
11 us. It also calculates meeting points along those
12 route. There are a lot of narrow channels, one way
13 traffic. We need to be able to calculate those meeting
14 points along the way.

15 MR. PAETZOLD: What are the limitations that you
16 found with the PPUs as they currently exist and are
17 required by the Board?

18 CAPTAIN MCCLOY: Our PPU is tied to the ship by
19 the AIS pilot plug. The data we get from that plug is
20 not always accurate. We do not know the quality of the
21 GPS position. There's a lot of factors. One is the
22 configuration of the antenna and the system with its
23 relative position in the ship. And the smoothing rate,
24 I'll explain that a little bit later. But the GPS is a
25 given average on the information. So that's another

1 thing we have no control of, and we often don't know
2 what those settings are.

3 Another thing is rate of turn data. Pilot
4 plugs do not give rate of turn data to the pilot. Some
5 do, but I don't want to estimate. But many, many do not
6 give us accurate rate of turn data which is important
7 for a PPU to display the predicted path of the ship.

8 MR. PAETZOLD: Can you tell what the effect is of
9 the AIS plug errors with regards to the information that
10 could be shown on your PPU -- I mean the vessel's
11 position?

12 CAPTAIN MCCLOY: So this is an example of
13 incorrect offsets. Basically the configuration of the
14 GPS receiver is not set up properly with respect to the
15 pilot plug. So it gives the pilot false position of the
16 ship. So here is what the pilot plug is telling us, but
17 here is the actual position.

18 MR. PAETZOLD: And you talked about the GPS
19 smoothing information. Explain a little bit more what
20 that means.

21 CAPTAIN MCCLOY: GPS averages course overground
22 and speed overground. What might be appropriate for a
23 ship's -- an ocean or coastal line navigator, their
24 averaging settings may not be appropriate for the pilot.
25 And the information we need needs to be a lot quicker.

1 And the picture on the right shows an
2 example. There's two different predicted paths, here.
3 This is an actual incident where those smoothing rates
4 were not correct on the ship, and the pilot made
5 decisions based on that in the fog and it did not give
6 him the correct predicted path.

7 MR. PAETZOLD: You also mentioned the rate of turn
8 data that you normally or frequently do not get. Can
9 you describe what that looks like both with and without?

10 CAPTAIN MCCLOY: Well, rate of turn is the speed
11 at which the ship is turning, the rate in change in
12 course. So in the left picture what a typical PPU would
13 give you, your course overground. This a job on a
14 really narrow channel going around a turn. It gives you
15 the course overground on a ship. But it doesn't take
16 into effect the actual rate of turn, how fast the ship
17 is turning. The configured turn data can give you
18 good predictions.

19 MR. PAETZOLD: Your committee has been looking at
20 the next generation of PPUs. Can you tell us what you
21 looked at?

22 CAPTAIN MCCLOY: We've looked at a handful of
23 different vendors. Here are two that are pretty common.

24 MR. PAETZOLD: What components are involved in the
25 next generation of PPUs?

1 CAPTAIN MCCLOY: Like ours now, we have a laptop
2 with custom software. But the laptop is configured to
3 work with independent sensors. Depending which levels
4 you go with, you may use an independent GPS, and an
5 independent rate of turn generator. The GPS is
6 configured properly. Number one, it is configured
7 properly with correct averaging smoothing rate for use
8 appropriate for piloting. And the pilot is in control
9 of the proper configuration as far as it's offset where
10 it is placed.

11 The rate of turn generators are getting
12 small enough and accurate enough where they can be
13 carried with a PPU, and it gives a very precise rate of
14 turn generator, better than what a ship can give you,
15 even if they did have rate of turn data available.

16 MR. PAETZOLD: I believe you have a video showing
17 the effects of what you are seeing on your PPU, both
18 with and without the rate of turn data. Can you
19 describe what is happening?

20 CAPTAIN MCCLOY: This is an actual job. One is
21 showing a ship with no rate of turn data, similar to
22 those other still pictures. But here is one that shows
23 actual rate of turn information provided to the
24 computer. And it can calculate the path of the ship and
25 helps the pilot give the proper counter rudder order and

1 proper maneuver to make that real narrow channel it is
2 trying make. And again, it is extremely valuable in fog
3 in narrow channels.

4 MR. PAETZOLD: What does that look like from the
5 pilot's point of view?

6 CAPTAIN MCCLOY: So here is the same thing, same
7 job shown both on the video on the left and the screen
8 captured on the right. You can see there's a channel
9 marker coming up here. It is actually a pretty narrow
10 channel on a tight turn. And having that rate of turn
11 data is pretty valuable in making that turn as smooth as
12 possible in avoiding the shoal. They're just now
13 becoming available in a size that you can carry on a
14 ship.

15 MR. PAETZOLD: So in summary what do you believe
16 the next generation of PPU's benefits are?

17 CAPTAIN MCCLOY: Well, one is the GPS. We're able
18 to put it -- we know its configuration is correct as we
19 set it up. We are not relying on what the ship tells
20 us. Rate of turn data, we know it is accurate. We are
21 providing it ourselves. We are not relying on the ship.
22 And it has a great benefit in restricted visibility
23 because we have the position, the path in front of us.

24 MR. PAETZOLD: So with regard to safety, it was
25 only in 2008 that we required carrying PPUs. How does

1 that vary with the safety that's provided to the new
2 generation of PPUs?

3 CAPTAIN MCCLOY: Well, in 2008 there was an
4 improvement of safety. With the next generation of
5 equipment, we're getting data from the ship but we're
6 also using independent sensors which eliminates some of
7 that garbage in, garbage out provided by the ship.

8 MR. PAETZOLD: Did you look into the cost of the
9 new generation PPUs?

10 CAPTAIN MCCLOY: Yes. The new PPU systems are all
11 configured and come with all the hardware and software
12 support for several years. They comes with pretty
13 comprehensive warranties, and often spare systems onsite
14 because they're specialized here. So if it goes in the
15 water or malfunctions, they generally have a couple
16 systems standing by as well.

17 MR. PAETZOLD: And what are the costs?

18 CAPTAIN MCCLOY: With the ones I showed you in the
19 picture, the costs are about \$23,000 to \$24,000 per
20 pilot. So \$1.4, \$1.5 million. As Captain McIsaac said,
21 some come with lease options as well.

22 MR. PAETZOLD: You also discussed in your
23 declaration the e-pilots and the ultra large container
24 vessels. First of all, what are we looking at here?

25 CAPTAIN MCCLOY: That's a ULCV, the MSC Aurora, a

1 little over 1,200 feet.

2 MR. PAETZOLD: Typically, what are the features of
3 those vessels that you are most concerned with as a
4 pilot?

5 CAPTAIN MCCLOY: On the bottom there, displacement
6 in lateral wind area. Those are the big factors in
7 piloting those ships. That's the water the ship has
8 displaced, in other words. The weight of the ship is
9 considerably more than the Panamax style or even the
10 1,000 feet that we had for several years. These ships
11 are considerably larger.

12 In the displacement in that lateral wind
13 area, the forces on that ship by wind are considerably
14 more than the previous size ships. Here is just a
15 graphic display.

16 MR. PAETZOLD: What do the pilots do to prepare
17 for the arrival of ULCVs?

18 CAPTAIN MCCLOY: We worked with the Port of
19 Oakland on studies, Cal Maritime with extensive
20 simulation modelling of Daniela class MSC ships, and
21 lots of simulations and a lot of review of the
22 simulations with a bunch of pilots and consultants. And
23 they came up with some recommendations. One was to use
24 precision docking systems. In other words, navigational
25 equipment that's even more precise than your typical

1 PPU's.

2 They also said in this study one of the
3 findings was assign a second pilot. We call that an
4 E-pilot. Assign a second pilot to help, number one, set
5 up and run that advanced electronics as well as advise
6 primary pilot on the forces on the ship, the course, the
7 sea, all the things that are important to that job.

8 We also adopted some new guidelines as far
9 as current wind speeds, one-way traffic in certain
10 areas, and current guidelines as well.

11 MR. PAETZOLD: What is an E-pilot?

12 CAPTAIN MCCLOY: That second pilot that comes
13 aboard the ship. On arrival, he boards just inside the
14 Golden Gate Bridge. He brings that big bag of
15 electronics. He does the configuration and setup of
16 that gear. Then on the maneuver in Oakland he advises
17 the pilotmate of all the navigational data for the job.

18 MR. PAETZOLD: What components of the pilot make
19 precision docking systems?

20 CAPTAIN MCCLOY: This is what we're using now. It
21 is two pieces, aside from the bag and charger and
22 things. It is a pretty good size piece of gear that has
23 built-in -- a multiple GPS array here, rate of turn
24 generator built in, has a wifi connection built in. And
25 it also has AIS -- its own independent AIS receiver

1 connected wirelessly to it. It gives you a very
2 accurate position.

3 One of the big things is the speed in all
4 directions, the dynamics of the ship in the middle of
5 these maneuvers that we do in Oakland. You'll see in a
6 minute what that means. It also is completely
7 independent of the ship, even the heading that device
8 generates is very accurate. Also, gives us a very good
9 rate of turn predicted path.

10 MR. PAETZOLD: What are the current parameters
11 that the San Francisco Bar Pilots use to assign an
12 E-pilot?

13 CAPTAIN MCCLOY: In Oakland, in the inner harbor
14 anything over 1,115 feet requiring a turn in that basin
15 we assign an E-pilot. For ships over 1,000 to 1,115, if
16 they want to depart or arrive at night using that turn
17 basin, we assign an E-pilot to that job.

18 This is the outer harbor. Anything over
19 1,115 we assign an E-pilot if it is turning in that
20 basin. If it is over 1,200 feet, all ships whether
21 turning or not get assigned an E-pilot.

22 Another thing is adverse weather,
23 unpredictable winds or fully congested berths along the
24 inner harbor terminals, even if it is a vessel we
25 wouldn't normally assign an E-pilot to. If the

1 conditions warrant it, we'll assign an E-pilot.

2 MR. PAETZOLD: Can you show how the E-pilot and
3 primary pilot interact, and what the E-pilot sees and
4 what the primary pilot sees?

5 CAPTAIN MCCLOY: Yes. This is just a Google Earth
6 picture of what that turning basin looks like. It is
7 about 1,500 feet diameter. This is a screen clip of
8 that pilot mate system. It looks a little jumpy because
9 we're doing it at 32 times speed, otherwise we'd be here
10 quite a while.

11 You can see it is giving the pilot the
12 predicted path. These green lines are the vectors,
13 course over ground vectors going into this basin. Like
14 I was saying before, this information is very critical
15 with this size ship. And this gear will give us the
16 speed of the bow, the speed of the stern and importantly
17 the speed while making the dynamic turn. The size of
18 and the weight of these ships, we can't afford to get
19 excessive headway or sternway.

20 In the past, your eye was good enough for
21 making those observations. But now, with this size ship
22 you need to see it just a little bit -- you need to know
23 it sooner than your eye can see it.

24 You can also see the tugs around it, the
25 ships at the berth. And that's a 1,192-foot ULCV.

1 That's an aft house, one similar to the Aurora we saw
2 earlier.

3 This is just a quick video.

4 (Whereupon a video was shown.)

5 CAPTAIN MCCLOY: That is the pilot 11-foot berth.
6 There's the basin. So there's the pilot and the
7 E-pilot. That's a big change, having a second pilot on
8 the job. Pilots are used to working alone. It is a
9 different way of working.

10 Here is the visibility. You can't see the
11 computer in front of you. This video is taken from
12 someone walking around. Visibility containers
13 equipment.

14 With that equipment we can also measure
15 distance between points. We rely on the ships and the
16 tugs that help us out. You can measure distances with
17 the equipment.

18 That whole thing takes about 45 minutes from
19 entering that circle to leaving. And during that time
20 those ships, the size of the underwater area two tenths
21 of a knot of current in that basin did not used to have
22 that much effect on an 800 foot ship. Now on a 1,200
23 ship with an enormous amount of underwater area, that
24 two tenths of a knot and you can see quite a bit of
25 undercurrent, same with the wind area. The effect is

1 quite a bit. We increased the tug requirements and
2 changed a lot of things about how we handle these ships.

3 MR. PAETZOLD: Did you do projections as to what
4 you anticipate the pilots should be prepared for in and
5 what to expect for increased liabilities for ULCVs?

6 CAPTAIN MCCLOY: This was for planning for E-pilot
7 work assignments. The blue numbers -- blue column on
8 the left are actual numbers for the E-pilot assignments,
9 not ULCV calls or actual assignments of pilots. And in
10 the red column are my projections.

11 MR. PAETZOLD: By the way, is there a correction
12 that you needed to make in the document that that came
13 from?

14 CAPTAIN MCCLOY: Yes. In the petition under tab A
15 is a small box on the bottom left, the small table that
16 was added. It was incorrect in the calculations. The
17 two right hand big graphs and the bottom table below it
18 are correct. That was my projection. The one on the
19 left is an error in the spreadsheet operator.

20 MR. PAETZOLD: It is the box entitled, "Total
21 Jobs" in the low left-hand corner.

22 CAPTAIN MCCLOY: That's correct.

23 MR. PAETZOLD: Just ignore those numbers?

24 CAPTAIN MCCLOY: Yes.

25 MR. PAETZOLD: Did you do any estimates on what it

1 costs for the pilot mate equipment and what you would
2 anticipate it to be incurring in the future?

3 CAPTAIN MCCLOY: Yes. The newer approach to start
4 bringing these ships into Oakland and doing that study
5 we wanted to make sure we were ready for it, so we spent
6 the money on the pilotmate equipment, about \$72,000 in
7 equipment. I spent about \$3,000 to \$6,000 annually on
8 maintenance. We had a few breakdowns. We expect to
9 have another two to three years of service life for that
10 equipment. It has been working well.

11 Next generation is anywhere from \$100,000 to
12 \$200,000 depending on if the ships get a little bigger.
13 We'll have to go to the next sophistication or next
14 level of equipment which costs a little bit more.

15 But those are the quotes that I have for
16 now. I have similar maintenance contract for software
17 annually, and another five years service life out of
18 that.

19 MR. PAETZOLD: How many units is that projected
20 cost for?

21 CAPTAIN MCCLOY: Three. Three is covering the
22 amount of work we have now.

23 MR. PAETZOLD: Those are all my questions. Thank
24 you.

25 PRESIDENT JOHNSTON: Cross?

1 MR. JACOB: Thank you. Good afternoon, Captain
2 McCloy. I do have a couple questions for you. In
3 particular, I wanted to address the ULCV testimony. In
4 general, would it be correct to say that your testimony
5 is that the larger ULCVs that have been coming to the
6 Bay since 2011. And you project that to continue for
7 2019?

8 CAPTAIN MCCLOY: Yes.

9 MR. JACOB: And you defined ULCV vessel sizes for
10 us. And is that primarily how you would also ensure
11 that every vessel supposed to have an E-pilot dispatched
12 to it. Is this based on overall size of the vessel?

13 CAPTAIN MCCLOY: Overall size and the particulars
14 of their maneuver.

15 MR. JACOB: Are there times when an E-pilot is
16 dispatched for a vessel that is outside of just the
17 straight length of the vessel regarding turns in the
18 inner or outer harbor?

19 Are there times aside from those times you
20 identified when an E-pilot is dispatched; specific
21 conditions, weather conditions or anything like that?

22 CAPTAIN MCCLOY: We have that ability and we make
23 that known to all pilots. Even if it is a job that does
24 not meet our guideline for dispatching an E-pilot, if
25 they want one they can. We've also used them on special

1 jobs as well. Not many, but it has come in handy in
2 special projects.

3 MR. JACOB: If you could please confirm for us,
4 Captain McIsaac's testimony was it would be roughly half
5 of the ultra larges. So you don't have to assign an
6 E-pilot for everything, only for ships that have a turn
7 if they're between 1,115 and 1,200 feet?

8 CAPTAIN MCCLOY: 1,115 to 1,200 correct. If it
9 doesn't have a turn, we don't assign an E-pilot. Up
10 until now, it has been a learning process. We used to
11 put them on a lot more ships, but as we got more used to
12 those ships and find out how they handle, we loosened
13 that assignment rate a bit.

14 Over 1,200, then that's a different story.
15 Then they do require them in and out of the harbor.

16 MR. JACOB: So there are ULCV arrivals and
17 departures that don't require an E-pilot?

18 CAPTAIN MCCLOY: Correct.

19 MR. JACOB: And there are times you might dispatch
20 an E-pilot that fall outside the guidelines as well,
21 standard guidelines?

22 CAPTAIN MCCLOY: Correct.

23 MR. JACOB: So I guess what we're actually going
24 to be asking you to do is look at your declaration
25 Exhibit A, and address some of the issues that might

1 have come up that you said was incorrect inclusion. I
2 just want to make sure we are all on the same page in
3 our discussion about the numbers in your declaration in
4 these exhibits to clarify when these reflect just
5 E-pilot dispatches or total overall moves of ultra large
6 container vessels.

7 So if you look at Exhibit A, you had the
8 graph on the screen a moment ago. You had a chart and a
9 graph that are labeled, "Monthly E-pilot Job Totals."
10 What do these numbers represent?

11 CAPTAIN MCCLOY: These are the numbers of e-pilots
12 dispatched.

13 MR. JACOB: Okay. So you've described the E-pilot
14 methodology. So that's not every ULCV move, correct?

15 CAPTAIN MCCLOY: Correct.

16 MR. JACOB: And Captain McIsaac also looked at
17 ULCVs and E-pilot and the number of ULCVs calling. And
18 you said that in 2011 there was 17 ULCVs calling
19 Oakland. And it looks like you had 31 total E-pilot
20 jobs dispatched that year?

21 CAPTAIN MCCLOY: Yes.

22 MR. JACOB: So that ratio is -- you have a lot
23 more E-pilot jobs, almost twice as much. So it seems as
24 though you have a really high utilization of E-pilot
25 dispatch versus --

1 CAPTAIN MCCLOY: That first year we were putting
2 them on every single job.

3 MR. JACOB: Right. In 2014, here Captain
4 McIsaac's testimony was you had 167 ULCV arrivals and
5 242 dispatches. Obviously that's a much different ratio
6 of E-pilot dispatches. What would you account for that,
7 that change in dispatches?

8 CAPTAIN MCCLOY: The change from 2011 from 2014?

9 MR. JACOB: Yes.

10 CAPTAIN MCCLOY: Or the change in ratio?

11 MR. JACOB: Both. But I was talking about 2014.

12 CAPTAIN MCCLOY: The ratio in 2014, that would be
13 because of slight changes we might have thought the year
14 in which ships we assigned e-pilots to, if they're
15 turning or not turning.

16 MR. JACOB: Okay.

17 CAPTAIN MCCLOY: That's basically it. The
18 1,200-foot ships, we haven't changed any of those at
19 all.

20 MR. JACOB: So if we're looking at back at your
21 declaration and we're looking specifically at
22 paragraph 8 which is on Page 3. And relating to Exhibit
23 A, the numbers in paragraph 8 relate directly to the
24 E-pilot dispatch numbers here. But the language they
25 use in paragraph 8 is moves and arrivals. So I assume

1 that that's not necessarily correct. I wanted to give
2 you an opportunity to clarify --

3 CAPTAIN MCCLOY: Yes.

4 MR. JACOB: -- or restate that paragraph.

5 CAPTAIN MCCLOY: The numbers stated in the
6 paragraph were E-pilot assignments.

7 MR. JACOB: So would it be fair to say that if
8 we're looking at these numbers in the context of both
9 Exhibit A which had just the E-pilot dispatches and
10 we're trying to ascertain the total number of ULCV
11 moves, it would not be correct to look at 2011 as a
12 basis for the ratio of E-pilot dispatches to ULCVs,
13 because that ratio is so high compared to 2014. But
14 what is the ratio of ULCV moves to E-pilot dispatches,
15 do you know?

16 CAPTAIN MCCLOY: One more time on the question?

17 MR. JACOB: How many total ULCV moves would you
18 have versus how many total E-pilot dispatches would you
19 have?

20 CAPTAIN MCCLOY: I don't have that ratio.

21 MR. JACOB: Okay. Well, we have from Captain
22 McIsaac 167 ULCV arrivals, which I would hazard to guess
23 it would probably be 334 total moves approximately
24 because underlying departure. You might have additional
25 move there as well, obviously. I guess what I'm trying

1 to get at is, this ratio of total ULCV moves to E-pilot
2 dispatch jobs in 2014 looks to me 242 dispatches for
3 334 moves, correct?

4 CAPTAIN MCCLOY: Yes.

5 MR. JACOB: Which is a significantly different
6 dispatch ratio than in 2011.

7 CAPTAIN MCCLOY: Yes, definitely.

8 MR. JACOB: It is significantly lower than 2011.
9 Would you expect that to continue during your
10 projections through 2019?

11 CAPTAIN MCCLOY: That ratio could continue to get
12 lower?

13 MR. JACOB: To decrease?

14 CAPTAIN MCCLOY: I can't say that.

15 MR. JACOB: What were the trends that you based
16 that projection of E-pilot dispatches on?

17 CAPTAIN MCCLOY: I looked at the -- it was a
18 projection. I looked at the increases in '12, '13, '14.
19 I took the figure -- mainly I didn't use 2011 to 2012
20 much, because it was our first starting year doing that
21 kind of work.

22 But I looked at the next two years. I
23 looked at how much the increase was dropping, and then I
24 just took a percentage of that for the next year and a
25 percentage of that for the next year tapering off,

1 because I think my projection is that we'll get
2 saturated with that size ship. If you look at the last
3 couple years it is only ten percent increase that year,
4 three percent in the last year.

5 MR. JACOB: Only E-pilot dispatches?

6 CAPTAIN MCCLOY: Yes.

7 MR. JACOB: So there is not a total representation
8 of ULCV moves?

9 CAPTAIN MCCLOY: No. My goal on this project was
10 to figure out the usage of e-pilots and the equipment
11 needed and pilot work we needed to do.

12 MR. JACOB: But even assuming the rate of growth
13 subsided or goes slower, we're still projecting
14 increased uses of e-pilots every year from here on out
15 until 2019?

16 CAPTAIN MCCLOY: Yes.

17 MR. JACOB: In your declaration you also stated
18 that -- this is also in paragraph 7 -- that method of
19 using two pilots is common in other pilotage areas
20 handling ULCVs such as Los Angeles, Long Beach and
21 Seattle. Why did you choose to include or compare
22 these?

23 CAPTAIN MCCLOY: Because they're handling these
24 size ships.

25 MR. JACOB: Okay. And this was actually similar

1 to a question that Mr. Livingstone asked. Do they have
2 E-pilot rules or similar policies, do you know?

3 CAPTAIN MCCLOY: I believe they do. I don't know
4 their rules.

5 MR. JACOB: Okay. If you're a San Francisco Bar
6 Pilot and you receive an E-pilot dispatch, do you get
7 paid more for that, or do you receive the same percent
8 of income as every other pilot?

9 CAPTAIN MCCLOY: Same.

10 MR. JACOB: Just a couple more questions.

11 You used in your presentation as ULCV as a
12 representative vessel the MSC Aurora that's a vessel
13 also used as a representative vessel by Captain
14 Tylawsky. I'm assuming since you included in your
15 presentation or tell me if I should, that's a
16 representation of ULCV.

17 CAPTAIN MCCLOY: That's one of the larger ones,
18 one of them.

19 MR. JACOB: And if you wouldn't mind turning to
20 Captain Tylawsky's declaration, Exhibit A5, he also has
21 a pilotage cost breakdown for a container vessel, it's
22 the Venice Bridge. He's labeled this.

23 CAPTAIN MCCLOY: Where are you?

24 MR. JACOB: Exhibit A5, I take it you would agree
25 with Captain Tylawsky that this is not a ULCV?

1 CAPTAIN MCCLOY: Correct.

2 MR. JACOB: Okay. And that would be a
3 representative vessel for vessels that do not require
4 e-pilots and such?

5 CAPTAIN MCCLOY: Correct.

6 MR. JACOB: And are you familiar with the
7 navigational technology surcharge that was previously
8 adopted by legislature?

9 CAPTAIN MCCLOY: Yes. I was a brand new pilot,
10 but yes.

11 MR. JACOB: Would you be able to explain how it
12 works?

13 CAPTAIN MCCLOY: No.

14 MR. JACOB: Are you familiar with the pilot's
15 continuing education program?

16 CAPTAIN MCCLOY: Yes.

17 MR. JACOB: Would you agree that the continuing
18 education program and navigational technology for the
19 existing PPUs were both funded with industry surcharges?

20 CAPTAIN MCCLOY: Yes.

21 MR. JACOB: Are you aware that the continuing
22 education program was recently authorized in statutes to
23 include navigation technology training?

24 CAPTAIN MCCLOY: Yes.

25 MR. JACOB: That this training can also be charged

1 in the continuing education surcharge?

2 CAPTAIN MCCLOY: Yes.

3 MR. JACOB: Okay, thank you.

4 PRESIDENT JOHNSTON: Any other questions?

5 COMMISSIONER SCHNEIDER: Yes. I have two
6 questions for you. The first one has to do with Item
7 Number 6, talking about the cost of the system. So the
8 way I understand it really, if you use spend \$1.4, \$1.5
9 million to supply new PPUs to the pilots, essentially
10 that comes with a warranty that covers service for a
11 certain period of time. So I mean, with the changes in
12 technology, obviously the PPUs you have will last so
13 many years before they become obsolete.

14 So can I assume that if you bought 60 PPUs
15 with service warranty, etcetera, that that would last
16 the life that that technology is still valid?

17 CAPTAIN MCCLOY: Yes.

18 COMMISSIONER SCHNEIDER: I mean, that's a one time
19 fixed cost that also takes into consideration
20 maintenance, IT support, repair, that sort of thing?

21 CAPTAIN MCCLOY: Yes.

22 COMMISSIONER SCHNEIDER: And the other option is
23 the lease. And you have the numbers there.

24 The second question has do with your items
25 nine through -- well, actually really through 17 it has

1 to do with, you know, how you calculate the expense and
2 the additional pilot boat cost for the E-pilot jobs.
3 When you're calculating that cost, you're taking into
4 consideration growth of E-pilot jobs.

5 But in the petition for of the raise of the
6 tariff, that takes into consideration no growth. So I
7 just wanted to make sure I was straight because it is
8 hard for me to understand the expenses if one expense
9 takes into no growth, and a component of the increase is
10 taken into consideration growth resulting in larger
11 expenses. So, am I correct in the way I'm thinking?

12 CAPTAIN MCCLOY: Well if I understand you
13 correctly, I anticipate a growth in E-pilot assignments
14 because of the increased arrivals of ULCVs.

15 COMMISSIONER SCHNEIDER: Right. That's increased
16 to the pilot, both expenses to support the pilots.

17 CAPTAIN MCCLOY: To support transportation, yes.

18 COMMISSIONER SCHNEIDER: So I mean, the way I
19 understand the rate, you note five percent increase of
20 the tariff. I mean, part of that is to cover increased
21 expenses based on no growth, but part of the component
22 of the expenses is based on growth?

23 CAPTAIN MCCLOY: Correct.

24 COMMISSIONER SCHNEIDER: I don't know if I'm
25 confusing myself or not, I just want to understand how

1 it is calculated.

2 CAPTAIN MCCLOY: One thing that I can add is that
3 we've seen the growth in ULCVs, and we've seen a
4 decrease in the number of non ULCVs. So the GRT is
5 basically the same, but we're seeing more usage of
6 e-pilots.

7 COMMISSIONER SCHNEIDER: And I think that was a
8 great presentation. And it's amazing the stuff they can
9 do, especially this rate of turn indicator. It is
10 amazing that I could be there in the wheelhouse and
11 still calculate the rate of turn.

12 PRESIDENT JOHNSTON: One question. Do ULCVs have
13 power steering monitors?

14 CAPTAIN MCCLOY: Excuse me?

15 PRESIDENT JOHNSTON: Do ULCVs have power steering
16 monitors?

17 CAPTAIN MCCLOY: No, not usually.

18 PRESIDENT JOHNSTON: Can you give me a comparison
19 between the wind factor of a ULCV and, let's say, a car
20 carrier? They are completely different animals as far
21 as the wind factor and, you know --

22 CAPTAIN MCCLOY: Considerably a full load Daniela
23 class ULCV has considerably more windage area than a car
24 carrier because of the length. Typical car carriers are
25 600 feet long. Here these 1,200 feet long, not quite as

1 high as a car carrier. But they are -- the difference
2 in the length. I don't have the numbers in my head, but
3 I do know it is considerably more.

4 PRESIDENT JOHNSTON: Thank you. Any other
5 questions?

6 VICE PRESIDENT CONNOLLY: Thanks Captain McCloy
7 for your testimony. I wanted to hear a little bit more
8 about the displacement issue. You mentioned windage or
9 sale area as a new risk of these ships. And you also
10 briefly touched on displacement. Doesn't that change
11 the behavior of the ship that have nav channels,
12 etcetera?

13 CAPTAIN MCCLOY: Absolutely. Thanks for bringing
14 that up. These class of ships going in the confined
15 waterway of Oakland inner harbor. Oakland outer is
16 often more so than inner harbor.

17 The speed requirements are even more strict
18 than, say, the ships were doing 17, 18 years ago. What
19 used to be able to do with five knots now down to
20 three-and-a-half knots max. And the problem with going
21 that slow of speed with that size of ship with that wind
22 area is it that the wind affects it more. So that's why
23 the additional electronics are so valuable, because we
24 can keep the aggressive crab angle of that ship crabbing
25 down the channel to keep our speed down -- and I'll

1 explain why -- and still stay safe. Because the swept
2 path of that ship is so great when you're going down
3 that channel.

4 The problem is, with that displacement the
5 interaction forces on the ship along the berth in the
6 terminals is considerably greater than the last class of
7 ships we've been seeing. So that is much more critical.

8 VICE PRESIDENT CONNOLLY: Just to clarify. That's
9 new, something entirely new with that class of vessels?

10 CAPTAIN MCCLOY: We've always had to mind our
11 speed in those channels, but now we have to bring the
12 speed even lower and lower.

13 VICE PRESIDENT CONNOLLY: One other question.
14 Sounds like the technology upgrade with independent
15 sensors changes things entirely. But with the PPU, with
16 the old technology, technology was also a risk as well;
17 is that right, if you get false data, false positions?

18 CAPTAIN MCCLOY: Correct.

19 VICE PRESIDENT CONNOLLY: With independent sensors
20 that still greatly reduced, not completely eliminated.
21 And you have more control, considerably more control of
22 those factors than just relying on what that's giving
23 you. Does it still depend on GPS, you know, still
24 depend on GPS sensors and smoothing or GPS satellites,
25 correct?

1 CAPTAIN MCCLOY: Yes. Most modern devices use
2 multiple carriers, multiple systems. So the use of GPS
3 and mixed satellites use differential corrections which
4 apply, corrections differential GPS beacons and space
5 based augmentation systems, also the next level of the
6 E-pilot ships to survey grade equipment which relies on
7 modeling of the local interference with GPS.

8 VICE PRESIDENT CONNOLLY: Great. Thank you.

9 PRESIDENT JOHNSTON: Commissioner Long?

10 COMMISSIONER LONG: I have a handful of questions
11 for you. First one is you mentioned lease options. Is
12 that in your declaration somewhere, the numbers?

13 CAPTAIN MCCLOY: No. It is not.

14 COMMISSIONER LONG: Do you have that off the top
15 of your head --

16 CAPTAIN MCCLOY: Yes.

17 COMMISSIONER LONG: -- the cost associated with
18 leasing the PPUs?

19 CAPTAIN MCCLOY: Correct. So one of the quotes I
20 have is about \$41,000 a month for three years, and the
21 other is \$31,000 a month for four years. That includes
22 all the software licensing and upgrades and warranty.

23 Often these PPU vendors, they support their
24 software for a fixed length of time. And then once you
25 reach that end that's how they sell their next

1 generation because they don't support it anymore.

2 You're done paying it, but they don't support it
3 anymore.

4 COMMISSIONER LONG: They must have adopted that
5 from cellphone companies. So \$41,000 a month for
6 three years or \$31,000 a month for four years for
7 leasing PPUs?

8 CAPTAIN MCCLOY: Correct.

9 COMMISSIONER LONG: Another question on the ULCV
10 jobs, obviously when there's an E-pilot involved that
11 means two pilots on the ship. Does the job take longer?

12 CAPTAIN MCCLOY: Yes. Definitely longer, mainly
13 because of the speed.

14 COMMISSIONER LONG: Any idea how long the ULCV job
15 into or out of Oakland, how much longer that takes
16 compared to a regular garden variety Oakland job?

17 CAPTAIN MCCLOY: I'd say on a deeply laden 1,200
18 footer, at least fifty percent longer because of the
19 speed. Also affects the other traffic too, slows them
20 down because we're often using one way only restrictions
21 on the channels.

22 COMMISSIONER LONG: Okay. So 50 percent longer.
23 So garden variety Oakland job three hours, so ULCV jobs
24 four-and-a-half, somewhere in that range?

25 CAPTAIN MCCLOY: Yes.

1 COMMISSIONER LONG: You received a question in
2 cross examination about dispatch procedures for e-pilots
3 that were sort of outside the guidelines of the stated
4 policies for providing e-pilots. Is the genesis of such
5 a dispatch a safety concern? Is that where it comes
6 from, the request for an E-pilot?

7 CAPTAIN MCCLOY: Yes.

8 COMMISSIONER LONG: All right. That's all I have.
9 Thanks.

10 PRESIDENT JOHNSTON: What about the air gap under
11 between the ULCVs and the bridges?

12 CAPTAIN MCCLOY: We're getting close on the air
13 gap, too.

14 PRESIDENT JOHNSTON: For the Golden Gate?

15 CAPTAIN MCCLOY: For the Bay Bridge.

16 PRESIDENT JOHNSTON: Close like?

17 CAPTAIN MCCLOY: I think we're down to maybe ten
18 feet overhead. There is a class of Evergreen. I wish I
19 had better info on it. But we're approaching our
20 limits, that's why we just put an air gap sensor on that
21 span of the bridge to measure the realtime height of
22 that bridge span for that given time, anticipating these
23 maximum air draft ships that we have to move the actual
24 highest bridge span.

25 PRESIDENT JOHNSTON: An air draft indicator, does

1 that mean from the sea before you get to the ship or
2 before you get to the bridge or as you pass under it?

3 CAPTAIN MCCLOY: No. It is a device on the bridge
4 that measures the distance of the transmitter to the
5 water level, measures the deflection of the bridge,
6 gives you realtime information. It is a great tool.

7 PRESIDENT JOHNSTON: Thank you.

8 CAPTAIN MCCLOY: I think it will be valuable soon.

9 PRESIDENT JOHNSTON: Any other questions? Yes.

10 COMMISSIONER SCHMID: Captain McCloy, a question
11 about the e-pilots and more toward the electronics that
12 you carry onboard. There's no question that having the
13 extra pilot on board is good safety practice and
14 reflects positively on the pilots for taking that
15 precaution. In the regard to the PPU versus the pilot
16 mate system, with the upgraded PPU it sounds like there
17 would be more independent workings from plugging into
18 the ship versus working independent; is that correct?

19 CAPTAIN MCCLOY: Yes. I can explain the
20 difference.

21 COMMISSIONER SCHMID: Okay.

22 CAPTAIN MCCLOY: These next generation PPUs use
23 the pilot plug, but from the ships receiver that gathers
24 information around you from other ships. You still use
25 an AIS for the heading, the true heading of the ship.

1 Even the enhanced PPUs don't generate the heading, so
2 you're okay using the ship's heading. But you eliminate
3 those potential GPS errors and rate of turn, lack of
4 rate of turn using those devices. That's good for your
5 typical job.

6 For ULCVs, we need to know even better
7 number one heading, gives you much more precise heading
8 that's independent of the ship. And that software that
9 we're using gives us an even better predicted path
10 using -- I can't talk for the exact technical terms, but
11 of generating that to using that array of GPS's.

12 So it is not really comparable. So for an
13 E-pilot device it is not small enough yet to carry on an
14 independent job. That device can give -- when the ship
15 is in the middle of that turn at four-and-a-half speed
16 while you're making that turn, any PPU can give you
17 that.

18 COMMISSIONER SCHMID: Okay. I think I understand.
19 Thank you very much.

20 PRESIDENT JOHNSTON: DeAlba?

21 EX OFFICIO MEMBER DEALBA:: Thank you for being
22 here today. I'm kind of a layman up here, I need more
23 explanation on this technology. The Commissioner
24 Schmidt touched on it, but talking about two devices
25 here, the PPU which every pilot is assigned with, and

1 also have the pilot mate which is the ultra high
2 precision system that we're talking about. Using the
3 terms of these UCLVs. And you're proposing to upgrade
4 all PPUs for whatever \$1.7 million for every pilot, are
5 you also proposing to purchase new pilot mate systems
6 for e-pilots, too?

7 CAPTAIN MCCLOY: Not for a couple more years.

8 EX OFFICIO MEMBER DEALBA: How many of these pilot
9 mate systems do you have?

10 CAPTAIN MCCLOY: Three complete systems. That's
11 enough to do the work we're doing now. If we see an
12 increase in the ULCVs which we will, and when we see
13 more of them happening at the same time. We'll probably
14 go to four.

15 EX OFFICIO MEMBER DEALBA:: What is the cost for
16 one of those?

17 CAPTAIN MCCLOY: Right now about \$40,000 for the
18 ones we have now. They don't make those anymore. We're
19 waiting for the next generation from that particular
20 vendor. It will be around 40, I believe. Another
21 outfit I've gotten a quote from, and we demoed their
22 equipment. They're about \$200,000 for three, so \$65,000
23 a piece or something like that.

24 EX OFFICIO MEMBER DEALBA: I have another question
25 somewhat related. If we're having a trend of increase

1 in ULCVs calling more frequently at the Port of Oakland
2 and also in the Bay, and you're suspecting that you need
3 to take on an additional unit here, what's the
4 importance of having a pilot operate this device as
5 opposed to somebody else, another seasoned mariner maybe
6 a captain of the tug who is very much capable of reading
7 and communicating the information of this device to the
8 pilot? And I believe you said earlier in the
9 presentation that sort of -- not the awkwardness of
10 having two pilots on the bridge, but it is not common
11 practice. Would it be beneficial to have one pilot, a
12 more experienced mariner than the pilot than having the
13 E-pilot?

14 CAPTAIN MCCLOY: No.

15 EX OFFICIO MEMBER DEALBA: What is the importance
16 of having the pilot?

17 CAPTAIN MCCLOY: Because pilots talk the same
18 language. And awkwardness, it was different for us
19 moving to that two pilot. It is completely normal for
20 us now. But it was definitely a learning curve.

21 EX OFFICIO MEMBER DEALBA: Thank you very much.

22 PRESIDENT JOHNSTON: Commissioner Livingstone?

23 COMMISSIONER LIVINGSTONE: Captain McCloy, getting
24 back to this. We established earlier, we have agreed
25 there's 26 to 29 ports within the greater United States.

1 Captain McCloy, how many of those ports are handling
2 ULCV as of today?

3 CAPTAIN MCCLOY: I don't know.

4 COMMISSIONER LIVINGSTONE: Three. And I hate to
5 sound like a broken record because I keep saying this.
6 Three out of 30, so ten percent of the ports in the
7 United States are handling these ships, all on the West
8 Coast. That's Long Beach, Puget Sound and San
9 Francisco. Extraordinary is the word that comes to my
10 mind after 35 years at sea.

11 These ships are in five years the biggest,
12 the heaviest, the tallest vessels any port in the United
13 States has ever seen. They have 16,000 square meters of
14 wind area. If they have five degrees of leeway, they
15 increase their sweat path or their beam being by
16 50 percent. 10 degrees leeway you get from 20, 25 knots
17 of wind doubles your beam. Go from 167 feet sweeping
18 over 300 down the channel.

19 BOARD COUNSEL EAGAN: Just for a second. I want
20 to caution the commissioners. The commissioners are not
21 the source of evidence. They're not testifying.
22 They're not subject to cross examination. And it is one
23 thing to elicit information from the witness, it is
24 another thing to in effect give information that the
25 witness hasn't provided and may not be able to provide

1 and is not in the record.

2 So I would suggest the commissioner that
3 their role is not to serve as witnesses or sources of
4 information in and of themselves. Again, they should be
5 eliciting information from other people.

6 COMMISSIONER LIVINGSTONE: My apologies. I take
7 back everything but the word extraordinary.

8 PRESIDENT JOHNSTON: Any other questions by the
9 commissioners? By counsel?

10 MR. PAETZOLD: I have two items of redirect, if I
11 may.

12 PRESIDENT JOHNSTON: Please.

13 MR. PAETZOLD: Captain McCloy, earlier when you
14 had the screen shot of your lease options with regards
15 to the PPUs, the screen shot and the testimony indicated
16 \$46,000 per month for three years. In your more recent
17 testimony I don't recall now if that was in response to
18 cross examination, or one of the commissioners who
19 indicated \$41,000. I don't have a written document. My
20 question is simply, do you have the correct number?

21 CAPTAIN MCCLOY: \$46,000, my apologies.

22 MR. PAETZOLD: The second question with regard to
23 the Aurora, Captain Tylawsky's Exhibit A has tonnage of
24 143,500. Do you know what the average gross registered
25 tonnage is of the ULCVs in any other recent years?

1 CAPTAIN MCCLOY: 2014, 122,000 gross tons average
2 per ships over 1,115 feet.

3 MR. PAETZOLD: So the Aurora is on the high side?

4 CAPTAIN MCCLOY: Yes.

5 MR. PAETZOLD: That's all the questions I have.

6 Thank you.

7 PRESIDENT JOHNSTON: Thank you very much.

8 Mr. Paetzold, do you have one more witness, one more
9 presenter?

10 EXAMINATION OF CAPTAIN TYLAWSKY:

11 MR. PAETZOLD: I do. Call Captain Tylawsky.

12 Good afternoon, Captain Tylawsky.

13 CAPTAIN TYLAWSKY: Good afternoon.

14 MR. PAETZOLD: Captain Tylawsky, the commissioners
15 have had a chance to take a look at your declaration and
16 are familiar with your background. I'll start with the
17 question regarding comparable ports. You did a study on
18 charges by the different comparable ports. My first
19 question to you is, how did you use chose these
20 comparable ports?

21 CAPTAIN TYLAWSKY: All of these ports were deemed
22 comparable ports according to section 236 of the
23 regulation.

24 MR. PAETZOLD: Can you just take the commissioners
25 briefly through the map on the screen as to where the

1 comparable ports are located?

2 CAPTAIN TYLAWSKY: Yes, I can. The comparable
3 ports are Puget Sound, Columbia River Bar, Columbia
4 River, New York, New Jersey, Maryland, Jacksonville,
5 Tampa, Associated Branch Pilots, New Orleans Pilots,
6 Baton Rouge Pilots and Houston Pilots.

7 MR. PAETZOLD: And you used seven ships for your
8 study. How did you chose those ships?

9 CAPTAIN TYLAWSKY: These ships are a cross
10 section. They represent a different class of vessels.
11 For instance we have a tanker, the Golden State; we have
12 a bulker, a Panamax Containership; a car ship; a
13 chemical tanker; an ultra large container vessel or ULCV
14 and a passenger vessel.

15 MR. PAETZOLD: And where do those ships call in
16 the Bay Area?

17 CAPTAIN TYLAWSKY: They call in a variety of areas
18 around our jurisdiction. As an example the Golden State
19 gets jet fuel from Crockett and the Atlantic Ruby, a
20 bulker, delivers petroleum coke to Richmond. Venice
21 Bridge - the finished consumer goods on a Panamax
22 container ship into Oakland, the New NADA, Toyotas from
23 Japan to Benicia, the Cherry Galaxy chemical tanker, for
24 example, Palm Oil that we import from Malaysia to
25 Richmond, the MSC Aurora ULCV finished consumer goods

1 into Oakland, and the Sea Princess, for example, Alaskan
2 cruises from San Francisco and return.

3 MR. PAETZOLD: How do you proceed to find out what
4 the comparable ports would charge for each of these
5 vessels for pilotage service?

6 CAPTAIN TYLAWSKY: We contacted all of the
7 comparable ports and we gave them the particulars of
8 each of these ships. We asked them to simulate their
9 arrival from sea to a dock that those particular types
10 of vessels would proceed to in a logical berth. We
11 received back via e-mails with invoices or in
12 spreadsheet fashion the exact pilotage costs for each of
13 these comparable costs of each of these seven ships.

14 MR. PAETZOLD: Two of the regions where we use
15 comparable ports involves more than one pilot
16 organization to take the ship from sea to dock. What
17 did you see with those two?

18 CAPTAIN TYLAWSKY: That's correct. In some cases,
19 as you said, you need to use multiple pilot
20 organizations. In those two special cases unique cases
21 are in the case of the Columbia River and the
22 Mississippi River. With the Columbia River, a ship
23 that's proceeding inbound from sea must utilize two
24 pilot organizations. The Columbia River Bar Pilot for
25 the ship out at sea, and then in the vicinity of Astoria

1 there's a pilot change and the Columbia River pilots
2 take the vessel to berth along the Columbia River.

3 So the ships must use both the organizations
4 to go from sea to dock. So in this situation we need to
5 add the pilotage costs of the Columbia River, and
6 Columbia River pilots in order to conform to the
7 regulations.

8 For example, number two, on the Mississippi
9 River it is a little bit more complicated. Vessels
10 board their pilots down here in the Gulf of Mexico. The
11 associated branch pilots whose pilot offices are here in
12 Pilot Town, they board the ship and take the ship up
13 through southwest pass through this vicinity. They get
14 off, and the Crescent River pilots take over. And they
15 bring the ship up this stretch of the Mississippi River,
16 up to the vicinity of New Orleans.

17 These vessels that are proceeding to lower
18 Mississippi River ports, you'll need to use both of
19 these pilot associations. In some cases, ships are
20 proceeding up past New Orleans to destinations in the
21 vicinity of Baton Rouge. In that case, the Crescent
22 River pilots disembark north of New Orleans, and the New
23 Orleans Baton Rouge pilots board and take the vessel to
24 the upper Mississippi.

25 So as a result, in order to compute costs

1 for the upper Mississippi ports you have to add the cost
2 of the Associated Branch, the Crescent River and the New
3 Orleans, Baton Rouge pilots together.

4 MR. PAETZOLD: The commissioners have both the
5 Exhibit A that was attached to the declaration that was
6 filed 30 days ago, and Exhibit 6 which was provided at
7 the prehearing conference, with attached corrections on
8 it. Can you explain what the corrections are for?

9 CAPTAIN TYLAWSKY: Yes. Okay, that's it.

10 So here is the original Exhibit A, and this
11 is the correct Exhibit A. The one correction was an
12 error in one of the Excel or a few of the Excel cells.
13 Remember how I just said that in some cases we have to
14 add -- for the Mississippi course, we have the add to
15 the cost of three pilot associations? Well, this bar is
16 incorrect. It is too long. And you can see here that
17 this is the corrected bar.

18 (Indicating.)

19 The reason why this bar was too long was
20 this bar was added here to the edge. It should not have
21 been added. So it was an Excel addition error. Again,
22 the only correction here in this graph is this bar is
23 too long, and this is the corrected bar. When I did the
24 correction, I also colored these so they're a little bit
25 easier to see.

1 So remember the special cases I just
2 discussed? This dark bar in combination of the
3 Associated Branch in the Crescent River, so it is a
4 compilation bar. When we take this bar and we add this
5 bar, that's the total cost.

6 And the same down here for Columbia River.
7 You take the Columbia River Bar Pilots, then you use the
8 Columbia River pilots. You add those two together and
9 then you get the long bar. So it was an addition error
10 here.

11 MR. PAETZOLD: Why did we have the sea to dock
12 provision for those two areas?

13 CAPTAIN TYLAWSKY: Regulation calls for the cost
14 estimates from sea to dock.

15 MR. PAETZOLD: Do the same corrections apply to
16 some of the individual ship documents, A5 to A8?

17 CAPTAIN TYLAWSKY: In a couple of instances there
18 was the same error which caused this bar to be too long.

19 MR. PAETZOLD: When you did your average of all
20 ports calculation, the numbers are shown in yellow on
21 the screen and the San Francisco Bar Pilots
22 calculation --

23 First of all, what does this number
24 represent?

25 CAPTAIN TYLAWSKY: The number in yellow is the

1 average of all of the ports minus these dark blue bars,
2 so minus the combination costs. So it is an average of
3 all the comparable ports of the pilotage cost. And in
4 both cases, the averages were identical. So the number
5 that was in this bar did not affect the actual average.

6 MR. PAETZOLD: So when you say a total of all
7 costs, that is taking all seven ships to the individual
8 comparable ports?

9 CAPTAIN TYLAWSKY: That's correct.

10 MR. PAETZOLD: And then subsequently did you say
11 the same correction needs to be made in Exhibit C?

12 CAPTAIN TYLAWSKY: Here is Exhibit C. And the
13 reason we created Exhibit C was to show the actual
14 numbers that we used to create the bar graphs. So in
15 Exhibit C you'll see the total pilotage costs, and then
16 the pilotage cost for each of the comparable ports.

17 Remember how I said there was one bar that
18 was too long? This was the number right here. This
19 number on the original amount was 178. And here the
20 format was changed a little bit different to make it a
21 little easier to read. The actual number is 141.

22 Also, it was important for us to show you
23 how we arrived at the average. So, in order to arrive
24 at this average, actually averaged only the comparable
25 cost. We do not average in the compilation costs.

1 MR. PAETZOLD: Why did you not include the sea to
2 dock costs for Baton Rouge, Maryland and the Columbia
3 River?

4 CAPTAIN TYLAWSKY: If we averaged those numbers
5 into the column, it would have been artificially high.
6 It would not have been a correct average.

7 MR. PAETZOLD: Take a look at the Golden State.
8 Can you describe to the Commission essentially how you
9 proceeded to populate or enter the data that you
10 received from the comparable ports?

11 CAPTAIN TYLAWSKY: So we took our data and divided
12 it up per vessel. So each spreadsheet shows the data
13 from one vessel. And, for instance, we took data from
14 the comparable port of the Golden State, in this case
15 the Crescent River pilots. We took the actual invoice
16 line items and we transferred them over to our
17 spreadsheet, and this gave total costs so we can compare
18 all the various ports. The ports here are listed on the
19 left. Various charges are listed on the columns, all
20 led up to the totals at the end. Bar graph
21 representations for all these total costs are listed.
22 So in this cases this shows in one document the Golden
23 State and how much it would cost to bring the Golden
24 State to sea to berth in each one of the comparable
25 ports.

1 MR. PAETZOLD: And you did the same thing for the
2 other six ships?

3 CAPTAIN TYLAWSKY: That is correct.

4 MR. PAETZOLD: Take a look at Exhibit B. This is
5 the exhibit that's actually in your declaration. If you
6 go to the PowerPoint before that, can you tell us how
7 you proceeded to get the information with regards to
8 rate changes in the comparable ports?

9 CAPTAIN TYLAWSKY: All of the comparable ports --
10 we created this diagram to better display what our
11 research was. We looked at all of the various
12 comparable ports, and we wanted to see if there had been
13 any rate increases since 2011. If there was a rate
14 increase, we wanted to confirm according to the
15 regulations that the rate information was readily
16 attainable and in the public record.

17 So along this list here you can see marked
18 in red all of these ports had rate increases, and all of
19 them had information that was obtainable and in the
20 public record. Saint Johns Bar did not have a rate
21 increase. Tampa Bay Pilots did not have a rate
22 increase. Of course, San Francisco Bar Pilots there was
23 no rate increase.

24 Columbia River Bar, they do have a series of
25 rate increases. They have things such as COLA,

1 helicopter fuel, transit, volume, things that -- there
2 was nothing quantifiable. I didn't have one number that
3 we can extract. So we just did not use Columbia River
4 Bar.

5 And Columbia River Pilots, we are aware of a
6 rate increase. But the information on the rate increase
7 was not readily attainable and in the public record. So
8 in the next slide here you'll see just the red ports and
9 their rate increases that they've had in 2011, the ports
10 listed on the left and divided up by the various years
11 2011, 2015.

12 If you take their rate increases and run a
13 line across, you'll get the totals for each one of the
14 ports over the course of the five years. And on the
15 bottom is the average of these columns, green numbers.
16 And bottom right here is the total average for all the
17 rate increase for all the ports.

18 MR. PAETZOLD: I don't have any questions with
19 regards to tariffs or pilot fee methods charging in the
20 upper ports. That concludes my questioning, thank you.

21 PRESIDENT JOHNSTON: Mr. Jacob?

22 MR. JACOB: Thank you. Good afternoon, Captain
23 Tylawsky. I would like to go through and touch on some
24 of the individual exhibits with you for some of these
25 vessels. And I would like to start with Exhibit A3,

1 which is the pilotage cost breakdown for the ULCV,
2 Vessel Aurora. Again, why did you pick this vessel as a
3 representative of the ULCV class?

4 CAPTAIN TYLAWSKY: Well, it is similar to the
5 vessels we used in the simulation based on the high end
6 of the vessels that we service. And I think it is a
7 typical ULCV.

8 MR. JACOB: And so you identified total pilotage
9 cost at just shy of \$17,500; is that correct?

10 CAPTAIN TYLAWSKY: That's correct.

11 MR. JACOB: That's a one-way transit across the
12 bar?

13 CAPTAIN TYLAWSKY: That's correct, from sea to
14 dock.

15 MR. JACOB: So for roundtrip you have an inbound
16 and outbound, so you have approximately \$35,000?

17 CAPTAIN TYLAWSKY: Yes, approximately.

18 MR. JACOB: And then if you had any other
19 additional charges on top of that through the blue card
20 or anything like that, you're at least at \$35,000 and
21 change for a typical port call on a ULCV?

22 CAPTAIN TYLAWSKY: This is roundtrip for a berth
23 that a ship would normally go. So roundtrip from sea to
24 Oakland, that would be the approximately \$35,000 number.

25 MR. JACOB: Okay, great.

1 If you wouldn't mind turning to Exhibit A5
2 for the container vessel Venice Bridge, same question.
3 Why did you pick this as a representative of the
4 non-ULCV container class.

5 CAPTAIN TYLAWSKY: We used the Venice Bridge back
6 in 2011, and the Venice Bridge is a frequent caller and
7 a Panamax vessel.

8 MR. JACOB: So it is also a typical, stereotypical
9 middle of the road size container vessel?

10 CAPTAIN TYLAWSKY: Yes.

11 MR. JACOB: You identified its total pilotage
12 costs about \$6,800?

13 CAPTAIN TYLAWSKY: That is correct, one way.

14 MR. JACOB: So roundtrip not including any other
15 blue card charges or anything like that, we are about
16 \$13,700?

17 CAPTAIN TYLAWSKY: Approximately, yes.

18 PRESIDENT JOHNSTON: I see it as only \$6,000.

19 MR. JACOB: That's what I see, \$6,882.21.

20 VICE PRESIDENT CONNOLLY: I think you're looking
21 at the wrong ship there.

22 MR. JACOB: I'm sorry, Frank. I'm on A5, the
23 Venice Bridge.

24 CAPTAIN TYLAWSKY: Venice Bridge.

25 PRESIDENT JOHNSTON: I'm sorry.

1 MR. JACOB: Are we good?

2 PRESIDENT JOHNSTON: Yes.

3 MR. JACOB: So we're looking at comparing the ULCV
4 vessel with the typical non-ULCV vessel. The roundtrip
5 is about \$21,000 less than average cost, from \$35,000 to
6 just shy of \$14,000.

7 CAPTAIN TYLAWSKY: Okay.

8 MR. JACOB: Same question. Looking back at A3
9 ULCV and highlighting some of the actual pension
10 surcharge cost in here, looks like the one-way charge
11 for ULCV pension surcharges \$3,100 and change,
12 \$3,163.20.

13 CAPTAIN TYLAWSKY: That's what I see, yes.

14 MR. JACOB: That's about 20 percent of the total
15 for one way?

16 CAPTAIN TYLAWSKY: Yes. A little less, actually.

17 MR. JACOB: A little bit less. Comparing just the
18 ULCV pension surcharge to other vessel pilotage cost, we
19 look at the Golden State Exhibit A2, to the Atlantic
20 Ruby Exhibit A4, and the Cherry Galaxy of Exhibit A7.
21 For example, the Cherry Galaxy in A7 total tonnage
22 charges looks like \$1,100.

23 Here, is it fair to say that the ULCV pays
24 more in one-way pension surcharge than the rest of these
25 ships pay in their total tonnage charge?

1 CAPTAIN TYLAWSKY: Can you restate the question,
2 please?

3 MR. JACOB: Yes. We can look at one. Since I
4 have Cherry Galaxy here, Exhibit A7, when you compare
5 the total tonnage charge which is the rate of pilotage
6 that we're talking about here today with the rate
7 petition, that vessel looks like it pays \$1,100.

8 CAPTAIN TYLAWSKY: Yes.

9 MR. JACOB: And when you compare it just to the
10 pension surcharge on the ULCV, just that surcharge is
11 three times higher than the total amount paid for this
12 vessel to transit the bar?

13 CAPTAIN TYLAWSKY: Yes.

14 MR. JACOB: Is it safe is to say given these
15 examples your vessel to vessel comparisons of ULCV
16 category pays substantially more in pilotage and total
17 surcharge than any of the other vessel classes surcharge
18 via polite there?

19 PRESIDENT JOHNSTON: Again, is it safe to say
20 what, please?

21 MR. JACOB: That in your vessel to vessel
22 comparison of costs, that the ULCV category pays
23 substantially more in pilotage and total surcharge than
24 any other of the other vessel classes?

25 CAPTAIN TYLAWSKY: As far as totals, yes.

1 MR. JACOB: If you wouldn't mind turning to
2 Captain McCloy's Exhibit B of his declaration. He lays
3 out in Exhibit B a chart and a graph labeled, "Pilot
4 Vessel Operating Cost For E-pilot Job." See that? It
5 has a cost for job total that goes from \$499 in 2012 to
6 \$579 in 2019. Do you see that?

7 CAPTAIN TYLAWSKY: Yes.

8 MR. JACOB: Would it be fair to say that the ULCV
9 charges that you identified in Exhibit A3 are
10 substantially greater than the cost per gallon total?

11 CAPTAIN TYLAWSKY: I'm having a little bit of
12 trouble. What numbers are you trying to ask me to
13 compare?

14 MR. JACOB: In the cost per job line, 4A E-pilot
15 job, the additional cost that providing that service to
16 ULCV say in 2014 here is \$483?

17 CAPTAIN TYLAWSKY: I see that.

18 MR. JACOB: So same question, compared to the ULCV
19 charges you identified in your submission, it is
20 significantly in excess of \$483 in 2014 for an average
21 size ULCV, or typical ULCV?

22 CAPTAIN TYLAWSKY: What charge would you like me
23 to look at for ULCV, to compare?

24 MR. JACOB: Your charge in A5 to total pilotage.
25 One way \$13,265.

1 CAPTAIN TYLAWSKY: So you're asking me if \$13,000
2 and change is substantially more than \$483?

3 MR. JACOB: That's right.

4 CAPTAIN TYLAWSKY: I would say so.

5 MR. JACOB: Is it also your opinion that if there
6 was a general rate increase that these larger ships
7 would pay much larger surcharge for things like board
8 operations and pension?

9 CAPTAIN TYLAWSKY: I'm not aware of the surcharge
10 calculation per tonnage ratio. I don't have that
11 offhand.

12 MR. JACOB: When you calculated, for example, A3
13 here and you had a charge for pension and for the pilot
14 board operations surcharge, did you calculate that based
15 off a mill rate or off of total revenue to the
16 Commission?

17 CAPTAIN TYLAWSKY: I'm afraid that I didn't
18 calculate those particular charges. They were all
19 generated via the billing system not only in San
20 Francisco, but in all the comparable ports. The
21 particulars of the ships run into the billing system,
22 and the output I just basically transcribed onto this
23 exhibit. So I didn't actually do any of the
24 calculations for tonnage pension or any of the available
25 surcharges.

1 MR. JACOB: Okay. In your Exhibit A1, would it be
2 correct -- and thank you for that. We appreciate your
3 submission of the more accurate data.

4 You described this in your declaration as "A
5 summary of the cumulative costs for all vessels arranged
6 by comparable port and graphical form." I believe in
7 your testimony you said that this was supposed to
8 represent either a fictional company or a fictional
9 vessel owner disseminating each of these vessels to one
10 port once?

11 CAPTAIN TYLAWSKY: That's correct. We took the
12 seven ships and we simulated to send them to all the
13 comparable ports. That's right.

14 MR. JACOB: So this chart assumes just a single
15 transit for each vessel to each port?

16 CAPTAIN TYLAWSKY: That's correct. Inbound from
17 sea to dock.

18 MR. JACOB: So it is not roundtrip?

19 CAPTAIN TYLAWSKY: That's correct.

20 MR. JACOB: It does not take into account the
21 frequency with which these individual vessels would
22 actually be calling in each of these ports?

23 CAPTAIN TYLAWSKY: That's correct.

24 MR. JACOB: It wouldn't speak to the frequency of
25 any particular class of vessels to the ports?

1 CAPTAIN TYLAWSKY: That is correct.

2 MR. JACOB: So it isn't necessarily proportional
3 with respect to the total pilotage cost, it wouldn't
4 necessarily reflect an assumption looking at that that
5 this is necessarily representative of how often each
6 type of class of vessel is calling in the ports?

7 CAPTAIN TYLAWSKY: That's correct. This is simply
8 a comparison of the total pilotage costs among all of
9 comparable ports.

10 MR. JACOB: For instance, I think Mr. Livingstone
11 hit this on the head. You wouldn't necessarily be able
12 to say that the MSC Aurora or any other ULCVs had
13 actually been piloted to most of these ports from this
14 table?

15 CAPTAIN TYLAWSKY: That's correct.

16 MR. JACOB: Or, for example, the Sea Princess,
17 your cruise ship class representative, hasn't
18 necessarily called to most of these ports?

19 CAPTAIN TYLAWSKY: That's correct.

20 MR. JACOB: And it would be hard to say then that
21 you could actually physically apply the rates that are
22 either statute or tariff of any of these ports to all
23 the comparable vessels as a matter of fact? It's a
24 hypothetical?

25 CAPTAIN TYLAWSKY: No, it is not hypothetical. We

1 actually sent the characteristics to all the comparable
2 ports. And they ran the characteristics as if the ship
3 would go to the berth that would be the logical
4 destination port. All the vessels were sent through
5 their respective billing systems, and the calculations
6 were made. So if those ships actually had gone or maybe
7 some of them already do, that number was represented to
8 the best estimate possible.

9 MR. JACOB: So to me, correct me if I'm wrong, it
10 sounds like it is hypothetical.

11 CAPTAIN TYLAWSKY: In some cases, if a ship is not
12 actually visited that port before, I guess you could
13 call it hypothetical. But if the ship were to go,
14 that's what the cost would be.

15 MR. JACOB: Okay. So then one other thing. Could
16 you please turn to your declaration, Paragraph 2A. If
17 you wouldn't mind reading that paragraph for us on
18 Page 1.

19 CAPTAIN TYLAWSKY: Read Paragraph 2A?

20 MR. JACOB: 2A, please.

21 CAPTAIN TYLAWSKY: "Each port was asked to create
22 a 'Pro Forma Invoice' or otherwise provide a breakdown
23 of the cost of providing pilotage for these vessels for
24 one-way voyage from sea to berths typically visited in
25 that port by the vessel of each corresponding class."

1 MR. JACOB: How did you choose which berth was
2 typically visited in that port by the vessels if they
3 were not accommodated at that port?

4 CAPTAIN TYLAWSKY: We contacted comparable ports
5 and we said to take a ship. So, for instance, a
6 container ship would go to the destination where the
7 container ships would go to. A bulker would go to a
8 port typically used by bulkers. So it was determined by
9 the comparable ports according to where ships of those
10 classes normally go.

11 MR. JACOB: And then finally, both Captain McCloy
12 and Mr. Livingstone actually both mentioned that there
13 were only three other ports that were comparable with
14 respect to ULCVs. You did not include those there?

15 PRESIDENT JOHNSTON: Excuse me. Can you say that
16 question again?

17 MR. JACOB: Three other ports you did not include.
18 You did not include all three of the other ports that
19 the MSC Aurora would be calling?

20 CAPTAIN TYLAWSKY: I included the comparable ports
21 that would be comparable by regulation 236.

22 MR. JACOB: Regulation 236 also allows for
23 comparability with respect to vessel density and vessel
24 traffic. You didn't take into consideration that to
25 expand the list of comparable ports that were considered

1 for the regulation?

2 CAPTAIN TYLAWSKY: I did not expand the comparable
3 ports that were listed in regulation 236.

4 MR. JACOB: Thank you.

5 PRESIDENT JOHNSTON: I have just one question
6 myself. Did you take into account the distance, say,
7 from the sea board to dock?

8 CAPTAIN TYLAWSKY: I think that's reflected in the
9 Mississippi River, especially when you have the
10 compilation of various pilot organizations, and also the
11 Columbia River. So, for instance, the sea from sea to
12 Baton Rouge is 225 miles. That's probably one of the
13 reasons why, I have to assume, that the costs are
14 higher.

15 PRESIDENT JOHNSTON: You did that for each port or
16 each class of vessels?

17 CAPTAIN TYLAWSKY: Well, correct. We asked
18 them -- as I said, we sent the seven ships to each of
19 the ports and we asked them to take that ship and bring
20 it to be dock where that ship would normally call.

21 PRESIDENT JOHNSTON: But not taking to account the
22 sea board to the dock?

23 CAPTAIN TYLAWSKY: We didn't mention anything
24 about sea board. We just said, send the ship to where
25 it would logically go, normally go.

1 PRESIDENT JOHNSTON: Okay thank you. Questions by
2 the Commission?

3 Mr. Livingston, yes?

4 COMMISSIONER LIVINGSTONE: Captain Tylawsky, could
5 you go to California titled "pilots and navigation code"
6 Page 2F4. Would you, for the record, read subsection
7 four?

8 CAPTAIN TYLAWSKY: "Rates charged for comparable
9 services of other ports. The Board has identified eight
10 ports in the US that it deems comparable for purposes of
11 comparing ports and other pilot data. Available rate
12 data from those ports piloting a cross section of ships
13 from sea to dock and the comparison of the SFBP charges
14 under the current rates is provided in Tylawsky
15 Declaration Exhibit A and C. Additional changes in
16 rates satisfy the Federal ports in which data is
17 available and provided in Exhibit C.

18 COMMISSIONER LIVINGSTONE: If you would go to --

19 CAPTAIN TYLAWSKY: What page are we on?

20 COMMISSIONER LIVINGSTONE: Harbors and Navigation
21 Code, section 236, Page 3 at the top now, which is the
22 second half of subsection 4 regarding comparable ports,
23 if you can find that.

24 MR. PAETZOLD: If I might help to make sure we are
25 on the page. Referring to the regulation, Commissioner?

1 CAPTAIN TYLAWSKY: Yes.

2 MR. PAETZOLD: Regulation is at Tab B of the SFBP
3 binder. It isn't the navigation code, but it refers to
4 that. But it is actually the California Code of
5 Regulations.

6 COMMISSIONER LIVINGSTONE: In Tab B.

7 MR. PAETZOLD: In tab B of Page 3.

8 COMMISSIONER LIVINGSTONE: I just want
9 clarification for the record on what that code says.

10 CAPTAIN TYLAWSKY: Okay. Page 3 or Page 2?

11 COMMISSIONER LIVINGSTONE: Starts at Page 2 at the
12 bottom, then Page 3.

13 CAPTAIN TYLAWSKY: So bottom of Page 2, Paragraph
14 4, "Rates Charged for Comparable Services in Other
15 Ports." Is that correct?

16 COMMISSIONER LIVINGSTONE: Yes.

17 CAPTAIN TYLAWSKY: Subsection 4, "Rates Charged
18 for Comparable Services in Other Ports. 'Comparable
19 services' means pilotage from sea to dock in ports with
20 generally similar geographic and hydrographic
21 parameters, vessel traffic in density and in size and
22 type of vessels, number of vessel movements, length of
23 transit, number of pilots, pilot work load and relative
24 difficulty of pilotage and hazards encountered. While
25 the Board recognizes no port will be precisely the same

1 in all these categories as the waters under the Board's
2 jurisdiction, it encourages the parties to agree on a
3 limited number of ports which are sufficiently
4 comparable for this purpose and for which accurate
5 pilotage rate, pilot income and/or pilot expense data is
6 reasonably available in the public record or is
7 otherwise verifiable. Absent persuasive evidence to the
8 contrary, the Board recognizes the following ports as
9 comparable for purposes of this section: Columbia
10 Bar/River, Houston, Tampa Bay, Sandy Hook (NY/NJ), New
11 Orleans/Baton Rouge, Saint Johns Bar Jacksonville),
12 Maryland (Chesapeake Bay) and Puget Sound (Seattle).
13 Pilotage rate and pilot income and expense data for
14 other ports shall be supported by evidence that the
15 pilotage services for those ports are comparable as
16 defined in this subsection."

17 COMMISSIONER LIVINGSTONE: Thank you.

18 PRESIDENT JOHNSTON: Any questions? DeAlba.

19 EX OFFICIO MEMBER DEALBA:: Thank you very much.

20 A couple questions. One, do you examine or take a look
21 at who sets the rates and what's the process for setting
22 pilotage rates in these navigable grounds comparable
23 port jurisdictions? I mean, do you have -- is it the
24 same process that we use here in California State
25 legislature?

1 CAPTAIN TYLAWSKY: It is my understanding that the
2 State legislative system is used in only one other
3 comparable port which is New York, New Jersey.

4 EX OFFICIO MEMBER DEALBA:: What are the other
5 ones you're using? If it is not the legislature, then
6 how do they set the rate?

7 CAPTAIN TYLAWSKY: My understanding is it's a type
8 of commission environment.

9 EX OFFICIO MEMBER DEALBA: I think it was brought
10 to the Mr. Jacob's explaining or testimony here MSC
11 Aurora that roundtrip was about \$32,000 or something
12 around that close to that.

13 CAPTAIN TYLAWSKY: Approximately.

14 EX OFFICIO MEMBER DEALBA: So I'm not entirely
15 sure how \$48,000 is the total cost here on Exhibit A1.
16 Can you explain how you get to that number, just for
17 clarification?

18 CAPTAIN TYLAWSKY: So you're speaking of the green
19 mark there for San Francisco Bar Pilots?

20 EX OFFICIO MEMBER DEALBA: That's correct.

21 CAPTAIN TYLAWSKY: That's actually all seven ships
22 combined.

23 EX OFFICIO MEMBER DEALBA: If you're comparing
24 apples to apples, why would you combine the total?

25 CAPTAIN TYLAWSKY: We provide them the total of

1 all seven ships at all of the comparable ports. That
2 way you can compare the total pilotage cost apples to
3 apples because the same identical ships are going to
4 each of these ports. So it is a way to compare the
5 costs charged (for piloting all seven ships) in the San
6 Francisco Bar Pilot jurisdiction with the cost for
7 piloting the identical ships in the jurisdictions of the
8 comparable ports.

9 EX OFFICIO MEMBER DEALBA: Okay.

10 CAPTAIN TYLAWSKY: That's the purpose.

11 EX OFFICIO MEMBER DEALBA: Thank you.

12 CAPTAIN TYLAWSKY: Thank you.

13 COMMISSIONER SCHMID: Captain, question about the
14 Exhibit A1 total pilotage cost for all comparable ports.
15 It is difficult for me to make too much sense of this in
16 that it does not seem that we have the information for
17 the expenses for each of these pilot associations. They
18 may have fewer pilot boats, maybe fewer crews to pay.
19 So I don't have the revenue after expenses information.

20 But what I do think is really interesting is
21 that in Exhibit B in the rate increases for comparable
22 ports we see that 7 of the 15 comparable ports have rate
23 increases. Was there any information on
24 across-the-board increases for these ports, are they
25 directed in specific expenses, fuel and so on?

1 CAPTAIN TYLAWSKY: It is my understanding they are
2 across-the-board rate increases.

3 COMMISSIONER SCHMID: Okay, thank you.

4 CAPTAIN TYLAWSKY: Thank you.

5 PRESIDENT JOHNSTON: Any other questions from the
6 commissioners? Counsel?

7 Okay. Next on the agenda is a PMSA
8 presentation in support of this opposition for petition.

9 MR. PAETZOLD: I'm sorry. I have one more
10 witness, if I may.

11 PRESIDENT JOHNSTON: I'm sorry. I apologize.

12 MR. JACOB: Actually, Mr. Chairman, if I might.
13 Just to clarify the scope of this, we had a separate
14 conversation with SFBP counsel prior to the hearing
15 where he notified us that he would be substituting
16 Captain Wainwright for Captain Roberts' testimony. So I
17 think we agreed that still for the testimony is the same
18 as what Captain Roberts was intending to testify to.

19 MR. PAETZOLD: That's correct.

20 PRESIDENT JOHNSTON: That's fine.

21 MR. PAETZOLD: I think the commissioners all have
22 a copy of the prehearing order by which we agreed that
23 we would substitute Captain Wainwright for Roberts.

24 EXAMINATION OF CAPTAIN WAINWRIGHT:

25 MR. PAETZOLD: Captain Wainwright, good afternoon.

1 CAPTAIN WAINWRIGHT: Good afternoon.

2 MR. PAETZOLD: How long have you been a licensed
3 pilot?

4 CAPTAIN WAINWRIGHT: Since 1991, 23 years.

5 MR. PAETZOLD: During your term as a licensed
6 pilot, did you serve as a pilot commissioner?

7 CAPTAIN WAINWRIGHT: I did. I served on the Board
8 of Pilot Commissioners for 8 years, two 4-year terms
9 from the first of 2005 until the end of 2012.

10 MR. PAETZOLD: During that time, did you serve on
11 any of the pilot commissions' committees?

12 CAPTAIN WAINWRIGHT: I did. I served on the
13 finance committee through my full 8-year tenure, 7 years
14 as chairman of the Rules and Regulations Committee, 3
15 years as chairman of the Joint Rules and Regulation
16 Fitness Committee, our major work being with the help of
17 staff the section 217 regulations. The new fitness
18 regulations. And then 2 years from 2011 to 2012 on the
19 Ad Hoc Committee on Training Recruitment. The major
20 work of that committee being, with staff help,
21 amendments to section 213, training standards.

22 MR. PAETZOLD: Focusing on section 213 and the
23 pilot trainee entrance standards, what role did you play
24 in revising the Board's regulations?

25 CAPTAIN WAINWRIGHT: I sat on the committee.

1 MR. PAETZOLD: And briefly what were the key
2 changes to the criteria for entrance to the training
3 program that were being contemplated?

4 CAPTAIN WAINWRIGHT: There were four key changes
5 and several ancillary changes. The four key changes
6 were a reduction in the offshore master's command
7 experience from two years to 1 year, the addition of
8 towing as a command credit possibility, in other words
9 an expansion from just ship assist inside the bay to
10 towing.

11 Third change was another change in towing
12 with tugs smaller than 99 tons as long as the composite
13 tow was greater than 1,600 tons, that could be used as
14 command experience.

15 The fourth change was to require 1,600-ton
16 command experience to be accrued while holding the
17 license.

18 MR. PAETZOLD: Was there any expectation of the
19 Board that the net affect of these regulation changes
20 would increase or decrease the pool of eligible
21 candidates?

22 CAPTAIN WAINWRIGHT: Can I do a chronology?

23 MR. PAETZOLD: How did you get there?

24 CAPTAIN WAINWRIGHT: Yes, that helps me. On and
25 around mid 2000s we began to notice a narrowing, a

1 homogenizing the trainee list, the pools. So that we
2 started to notice that the trainees that were coming in
3 were of a narrower and narrower field of experience.
4 They were getting younger, could be because I was
5 getting older I noticed that.

6 But what we really thought we were losing,
7 what I thought we were losing was we were losing the mix
8 of offshore inshore. And so what we were risking was a
9 loss of that collegial pilot educational base where
10 everybody is learning from everybody else's experience
11 from different sectors of the industry.

12 So I went to commission President Miller,
13 told him about my concerns. He sent me to PEC to talk
14 to the Pilot Evaluation Committee to see if we can sort
15 it out. We did that. We discovered that we could, in
16 fact, make amendments to the section 213 the regulations
17 and possibly broaden and even improve the quality of the
18 pool. In fact, President Miller formed the Ad Hoc
19 Committee on the training recruitment.

20 Does that answer your question? I guess
21 not.

22 MR. PAETZOLD: The question that proceeded the one
23 about chronology and how do we get there, what was the
24 anticipation of the effect of changing the rules on the
25 size of the pool of candidates?

1 CAPTAIN WAINWRIGHT: That's a good slide because
2 the reason I went into chronology, the original intent
3 was to see if we could fix the mix. But what we
4 discovered was there was sort of an aha, if you will.
5 We can also broaden, expand and cast a larger net. So
6 that became thematic in the rule writing process.

7 So we imagined once we got started that we
8 could create that bubble in the middle there. We could
9 create a larger pool.

10 MR. PAETZOLD: One of the key factors that you
11 said became part of the changes in the rules that tug
12 operators with command experience would have had to have
13 had two years of command experience while holding a
14 1,600 license?

15 CAPTAIN WAINWRIGHT: Right.

16 MR. PAETZOLD: The earlier rule was, get your
17 command experience and then you get your 1,600-ton
18 licenses and still be qualified in, correct?

19 CAPTAIN WAINWRIGHT: Correct.

20 MR. PAETZOLD: So in that case the new rules would
21 be narrowing the pool of tug operators coming into the
22 trainee training program?

23 CAPTAIN WAINWRIGHT: Right. That's true. That
24 was the fourth big change, was fundamental to what we
25 were doing. I think we addressed this in the ISOR, the

1 initial statement of reasons that we realized that we
2 would be, in fact, pinching. But that we were presuming
3 the overall impact of the rule changes would be a
4 broadening.

5 Of course what we also would be also doing
6 is compress also bring in the 1,600 ton tug work up from
7 a nominal 5.4 years to a nominal 6.6. We'd be bringing
8 offshore masters from a nominal 10 years to a nominal 8.

9 So we kind of brought the two together so we
10 were doing all things. We were casting a broader net
11 and also fixing a mix at the same time.

12 MR. PAETZOLD: For those people who had been
13 working in the tug industry and planning on coming into
14 the training program who had not had 1,600-ton license
15 at the time they had command experience, was there an
16 attempt to deal with those people in an ethical way?

17 CAPTAIN WAINWRIGHT: Well the committee, the Ad
18 Hoc Committee, knew all along that there was a test
19 cycle looming. You know, while we were meeting in the
20 background we knew that there was retirements going on
21 and on that there was the thought of another test and
22 time was coming to bring other new trainees, so we knew
23 all along that it was a possibility.

24 We had ended up with a set of regulations
25 right at the moment that we announced for a new test.

1 But we ran out of time. We just ran out of time. Two
2 years and lo and behold just about the time we got the
3 regulations done was about the time executive director
4 sent out the notice.

5 So, did that answer your question?

6 MR. PAETZOLD: Well, my question actually was what
7 was ultimately done about taking care of those people
8 who would have made it under the old rules but would not
9 have made under the new rules with regard to the 2014
10 exam?

11 CAPTAIN WAINWRIGHT: Well, we combined the two.
12 We got to give our selves a little bit of credit. We
13 knew it would be sort of dirty pool to change the
14 regulations the day before, the guy that had been
15 preparing for his whole career under one set of rules to
16 apply that's not available to him.

17 Not only that, we had a public comment
18 period where those very, very same candidates made it
19 clear this is not cool. So we ended up combining the
20 old regulations and new regulations and ended up with
21 the biggest of the bubble there on the right.

22 But to make it real clear, that's not what
23 we set out to do. What we set out to do was the one in
24 the middle, but we end the up with the one on the right.

25 MR. PAETZOLD: I realize we cross over a period of

1 time. You ended up leaving the Commission in December
2 of 2012, correct?

3 CAPTAIN WAINWRIGHT: Through December, yes.

4 MR. PAETZOLD: Because of your past experience
5 with regards to the issues that you've mentioned to
6 President Miller several years earlier, did you continue
7 to follow the process of this rulemaking in 2015 exam?

8 CAPTAIN WAINWRIGHT: Yes, I did.

9 MR. PAETZOLD: Before I go beyond that, let me ask
10 you to take a look at PMSA's Exhibit 28.

11 CAPTAIN WAINWRIGHT: 28?

12 MR. PAETZOLD: Not paginated. But if you go to
13 the second to last page there's a section marked,
14 "Benefits of the Regulatory Action." First of all, do
15 you recognize what this document is titled initially
16 statement of reasons?

17 CAPTAIN WAINWRIGHT: Are you sure that's --

18 MR. PAETZOLD: First of all, question is do you
19 recognize what is the document?

20 CAPTAIN WAINWRIGHT: This is the initial statement
21 of reasons for section 213, rulemaking.

22 MR. PAETZOLD: For people who are not familiar
23 with the rulemaking process, what is the intent of this
24 document?

25 CAPTAIN WAINWRIGHT: The intent of the document is

1 to say to the public, Hear ye hear he, a public agency
2 is about to go into process of rulemaking. And there's
3 certain rules and we will be abiding by the rules. And
4 here's why we intend to do what we're going to do.

5 MR. PAETZOLD: If you go to the section that's
6 marked, "Benefits of the Regulatory action" on the
7 second to last paper, it is two sided.

8 CAPTAIN WAINWRIGHT: I'm there.

9 MR. PAETZOLD: Could you read the second and third
10 paragraph?

11 CAPTAIN WAINWRIGHT: "Given the realities of the
12 increasing number of applicants with tug experience but
13 with decreased number of years of overall maritime
14 experience, the difference between the 'seasoned'
15 merchant marine experience of deep-sea and tug
16 experience applicants is widening. While the change in
17 increase the minimum length of experience for tug
18 masters will somewhat reduce the applicant pool, other
19 changes will allow the consideration of more types of
20 tug experience, resulting in a wider pool that is more
21 experienced."

22 MR. PAETZOLD: And the paragraph just above that?

23 CAPTAIN WAINWRIGHT: "Given the realities of
24 limited opportunities for deep-sea sailors to acquire
25 two years' service as master, the pool of applicants

1 with experience is relatively small. Reducing the
2 requirement to one year of service will broaden the
3 applicant pool from that side of mariner expertise."

4 So we ended up rulemaking, going back to
5 what our intent was.

6 MR. PAETZOLD: So the net effect of 2014 is that
7 anybody who could qualify with the old rules and anybody
8 who could qualify with the new rules was permitted to
9 take the exam?

10 CAPTAIN WAINWRIGHT: That's correct.

11 MR. PAETZOLD: Now did you also have discussions
12 with regards to what efforts the Board was making to
13 reach out to the public that included the candidate
14 pool?

15 CAPTAIN WAINWRIGHT: Well, I can tell you that you
16 I participated in conversations at the Board level where
17 we discussed getting the word out. That centered around
18 the number of valid applications that we seemed to be
19 getting back. That would have been just as I became the
20 commissioner in 2005, 2006 that application class seemed
21 to be getting small.

22 And we thought we were better than that
23 somehow. And we had conversations around the table at
24 regular commission meetings about you know are we
25 beating the bushes well enough, sort of imploring staff

1 to work harder at getting the word out. Yes.

2 MR. PAETZOLD: Did you discuss what possible
3 sources to go to to make sure the word got out to the
4 applicant pool?

5 CAPTAIN WAINWRIGHT: We had talks. We talked
6 about maritime colleges, maritime academies, unions,
7 publications, yes. Brain stormed.

8 MR. PAETZOLD: As you indicated, you had an
9 increased interest in this area. Did you follow the
10 attempted made in 2014 to reach out by the Board?

11 CAPTAIN WAINWRIGHT: Well, the slide I'm looking
12 at right now is substantially accurate as to what I
13 understood at the time the advertising would be.

14 MR. PAETZOLD: What are we looking at?

15 CAPTAIN WAINWRIGHT: Looking at a list of
16 essentially educational institutions that cater to
17 professional mariner.

18 MR. PAETZOLD: Were there also attempts made to do
19 any advertising with regards to the opening of an exam
20 or exam cycles in any of the professional magazines?

21 CAPTAIN WAINWRIGHT: Yes. In this conversation we
22 talked about publication, also. This is what I
23 understood the list to be and now understand good that's
24 the list that was used.

25 MR. PAETZOLD: Did you follow the 2014 exam to get

1 an indication of how many of applicants ultimately took
2 the written test?

3 CAPTAIN WAINWRIGHT: Oh yes. We did. I was sort
4 of on the edge of my seat just wondering if when we went
5 from a little bubble to the medium bubble to the big
6 bubble what would happen. So yes, I was.

7 MR. PAETZOLD: What result did you understand how
8 many people -- how many applicants that were eligible
9 came to take the written test?

10 CAPTAIN WAINWRIGHT: Well, the column on the far
11 right, 33, is the number. Now there might have been 32,
12 but that's substantially correct as the number of
13 applicants that took the exam in 2014.

14 MR. PAETZOLD: Given the attempts that you
15 understood were being made to broaden the pool, what was
16 your sense of the outcome?

17 CAPTAIN WAINWRIGHT: Startling. You know, after
18 two years of committee work you know with the specific
19 intent of casting a broader net and then to get a number
20 that was flat over pretty close to a decade was an
21 alarming, may not be appropriate but baffling.

22 MR. PAETZOLD: I'd like you to take a look at
23 PMSA's exhibit entitled, "Table of Trainee Class
24 Specifics" the number on the column. Do you recognize
25 that?

1 CAPTAIN WAINWRIGHT: I do. Those appear to me to
2 be trainee classes or lists.

3 MR. PAETZOLD: So after the exam cycle is complete
4 and the Board accepts a list of candidates who have
5 passed the exam and simulator test and put on a list.
6 I'll represent to you that the code of regulations refer
7 to this as an eligibility list.

8 CAPTAIN WAINWRIGHT: Okay.

9 MR. PAETZOLD: How does the Board use that
10 eligibility list?

11 CAPTAIN WAINWRIGHT: The Board uses the
12 eligibility list as a day tank. They draw from that
13 tank based on demand which would be foreseen
14 retirements. That's the best way to describe it.

15 MR. PAETZOLD: How long does that list last? How
16 long can your Board draw that from that list before a
17 new exam has to be populated?

18 CAPTAIN WAINWRIGHT: They're all three-year lists.

19 MR. PAETZOLD: So is it your understanding that
20 the total trainees is the number of people on that list
21 after each of the examinations?

22 CAPTAIN WAINWRIGHT: That's my understanding.

23 MR. PAETZOLD: Do you recall the Board's
24 experience with regards to how many people who are on
25 the list ultimately enter the training program?

1 CAPTAIN WAINWRIGHT: Do you mean who go from the
2 list to the actually entering the program?

3 MR. PAETZOLD: Correct.

4 CAPTAIN WAINWRIGHT: My experience has always been
5 there would be at least a couple deferrals. For
6 example, if you have a list of 15 you would end up with
7 13 or 12. What would happen is there would be offers
8 made but the pilot would either defer, in other words
9 say Put me at the bottom of the list, move me down, or
10 I'll pass. I'm going to go back to college.

11 MR. PAETZOLD: You used the term pilot. You mean
12 applicant?

13 CAPTAIN WAINWRIGHT: Yes.

14 MR. PAETZOLD: They have to go through the
15 training program before they become a pilot.

16 CAPTAIN WAINWRIGHT: Yes.

17 MR. PAETZOLD: Once someone is in the training
18 program say they get to their name they get called they
19 say yes. What has been your experience as to how many
20 of those enter the training program actually
21 successfully complete it?

22 CAPTAIN WAINWRIGHT: Since 1988 when I passed that
23 rate has remained generally the same. I entered in a
24 class of seven which there's seven of us that came in at
25 one time. And there was one flunk out, one went back to

1 sea after six months and five of us graduated. And I
2 noticed that that ratio five to two generally holds
3 true.

4 MR. PAETZOLD: Take a look at Exhibit 24 of PMSA's
5 filings. It has an attrition rate of 39 percent for
6 2002, 40 percent for 2006, 25 percent for 2007 and 33
7 percent for 2010.

8 It appears that the attrition rate refers to
9 from the time that an applicant successfully completes
10 the examination placed on the eligibility list until the
11 completion of training.

12 CAPTAIN WAINWRIGHT: Okay.

13 MR. PAETZOLD: My question to you is, is that
14 consistent with your overall experience with regard to
15 bringing people from the exam cycle into the training
16 program and completing the training program?

17 CAPTAIN WAINWRIGHT: Yes. If I didn't have this,
18 I'd probably say 30 to 35 percent.

19 MR. PAETZOLD: Speaking of the training program,
20 you went through the training program yourself, correct?

21 CAPTAIN WAINWRIGHT: I did. In three years.

22 MR. PAETZOLD: Can you give the Board an idea of
23 what that training program is like to the individual, to
24 you particularly?

25 CAPTAIN WAINWRIGHT: To me. One long night. I

1 remember it as such. I did three years. I did a
2 stretch, to make it sound like that. I remember it as
3 just a lot of darkness. I don't mean emotional
4 darkness. It was a lot of night. Coming home, giving
5 the kid a bath, getting something to eat, changing a
6 shirt and going back and doing it again and again.

7 It is a very robust program, and it is
8 competitive. And you don't know if you're going to
9 graduate or not. You know, you go into a graduate
10 program and if you keep your grades up you know you're
11 going to graduate. But you don't know. That's the hard
12 part.

13 MR. PAETZOLD: In terms of attracting people into
14 the training program, what do you see as some of the
15 incentives that are Board trainings program and what are
16 the disincentives?

17 CAPTAIN WAINWRIGHT: Okay, so I'll go over that.
18 In my mind the column on the right would be the pluses
19 and the column on the left minuses. And so on the plus
20 side I would say where we pilot is gorgeous. First of
21 all, it is a wonderful place to live. If I lived
22 somewhere else and I told my wife we're going to move to
23 the San Francisco Bay Area I would be surprised if she
24 turned me down. We've got the universities here, we've
25 got the arts. The climate is gorgeous.

1 Very importantly, as a pilot it is a
2 tremendously stimulating place to work. I've been doing
3 it for 25 years. I'm not tired of the work at all.
4 There's something different every day. We've got so
5 many docks. There's so many different conditions that
6 we work under.

7 And this is very much attractive to me if I
8 was coming here to work, the objective nature of this
9 Board and the regulations that it works under and thus
10 the training program. So I'm pretty sure that if I get
11 here there's not going to be any funny business. Some
12 guy that has a relative here is not going to get
13 promoted over me. That's very attractive. That's
14 stability.

15 Thirdly, I would say compensation. When I
16 say compensation I mean the whole thing. I mean that
17 the organization that I would probably be working under
18 is generally stable, generally well-managed; I mean San
19 Francisco Bar Pilots. I would look at where it is
20 situated on the Pacific Rim, the port. I would look at
21 past earnings and say it is not bad.

22 Can I go to the negative side now?

23 MR. PAETZOLD: Please.

24 CAPTAIN WAINWRIGHT: On the negative side I
25 would say the biggest hurdle would be not knowing if

1 you're going to complete. So you would have to tell
2 your wife, I don't know for sure but I'm pretty sure.

3 The next thing would be once you commit,
4 you're committed. Once you're here, you're here. You
5 can't pass the California Bar and practice in San
6 Francisco and practice in Los Angeles. I can only
7 practice here. Once I'm here, I'm here. This is it.

8 I'd say the next thing would be offshore
9 ladders, swinging from a rope ladder off sea is not for
10 everybody. I would say medical oversight. Everyone is
11 aware of the new medical oversight standards. The
12 slightest little thing that happens in my body could end
13 my career.

14 Then would I say -- I would go back to
15 compensation again, and I would have to evaluate it. I
16 would have to look, again, at the whole picture. So if
17 I was considering compensation, I would have to consider
18 the Pacific Rim. I would have to consider everything
19 from democracy in China to drought in California. I
20 would have to consider the Central Valley, what impact
21 the drought is going to have on agriculture. I would
22 have to consider labor.

23 MR. PAETZOLD: Is cost of living an issue?

24 CAPTAIN WAINWRIGHT: Most certainly.

25 MR. JACOB: Might I raise a question?

1 PRESIDENT JOHNSTON: Yes.

2 MR. JACOB: Just with respect of Captain Roberts'
3 declaration, in we're moving a little bit beyond that
4 with respect to questions.

5 PRESIDENT JOHNSTON: Moving on.

6 MR. PAETZOLD: Let me ask a final question. How
7 has piloting changed since you became a pilot?

8 CAPTAIN WAINWRIGHT: Expectations. I have to say
9 expectations, and I would have to say a lot of things
10 changed around the Cosco Busan. I don't know why this
11 didn't dawn on me before that. This place -- I didn't
12 realize it at the time. I knew it was a great place to
13 pilot and a beautiful place, but I didn't realize it was
14 a shrine. To the people that represent it, it is their
15 shrine. And it didn't dawn on me until the process of
16 Cosco Busan.

17 I think I could argue and I would argue now
18 that there's no place like this in the world to pilot.
19 I think I could argue that this is the headwater -- I
20 don't think this is a hyperbole -- of international
21 environmentalism. John Muir kept his journals up in
22 Yosemite and he came down here to Lake Merritt to write.
23 That's where he wrote his books. He developed a
24 relationship with the University of California. And
25 they came to him and said, We have this club and we want

1 you to be the first president of the Sierra Club. Their
2 headquarters are about a mile from where we're sitting
3 right now. And all this dawned on me and I had a sort
4 of revelation.

5 You know, pilots sell with 99.5 percent
6 success. Under this board the safety guarantee may be
7 even higher. At any rate, when I say "expectation," I
8 mean self-expectation of perfection. One-hundred
9 percent. The difference is that now that extra half of
10 one percent. Say that extra half pound feels like 50
11 pounds. That's the difference.

12 MR. PAETZOLD: No further questions.

13 PRESIDENT JOHNSTON: More questions?

14 MR. JACOB: Just a couple questions, thank you.
15 Good afternoon, Captain. First question: You used
16 technical term which I'd like you to explain. In your
17 discussion about the changes in the regulations by quote
18 unquote, this is not cool,

19 Where you were referring to the confusion
20 amongst the mariner communities regarding some of the
21 changes, would you say there was some general confusion
22 amongst people who were potential applicants regarding
23 the rule changes?

24 CAPTAIN WAINWRIGHT: Yes.

25 MR. JACOB: In the process of your direct --

1 Exhibit 28, Initial Statement of Reasons, if you go back
2 to that page that says the third from last, "The
3 Benefits of the Regulatory Action," that first sentence
4 there that you read, I'll go ahead and read it for you.

5 "The benefits of the proposed regulatory
6 action will be enhancement of overall quality of
7 applicants for entry into the training program, as well
8 as overall quality of those ultimately selected for
9 admission to the pilot training trainee program."

10 Would you agree that the nature of the
11 broadening there was not just quantitative but
12 qualitative?

13 CAPTAIN WAINWRIGHT: So, the nature of the
14 broadening?

15 MR. JACOB: That's right. You were looking to
16 change the quality of the applicants to the pool, not
17 just the quantity of the applicants to the pool?

18 CAPTAIN WAINWRIGHT: Back up. Original intent was
19 to improve the quality of the mix. And then we
20 realized, oh wait. We can improve quality and quantity
21 at the same time. I think that's what you're asking.

22 MR. JACOB: Right. So they're not mutually
23 exclusive issues?

24 CAPTAIN WAINWRIGHT: They're not.

25 MR. JACOB: If you are looking through a

1 qualitative lens, the way this is laid out was, the
2 Board felt that it would be higher quality pool if you
3 had a better mix of deep sea and tug master experience?

4 CAPTAIN WAINWRIGHT: I think that's fair to say
5 that.

6 MR. JACOB: Okay.

7 CAPTAIN WAINWRIGHT: And then if you're talking
8 about quality, what were we going to give up going from
9 two years to one year. And so small in number of --
10 actually, the amount of experience that we decided the
11 overall quality would improve.

12 MR. JACOB: So one breakdown of methodology of
13 evaluating broadening could be just looking at the total
14 number of applicants. But another way of looking at it
15 could be a breakdown of those applicants by their
16 background as masters?

17 CAPTAIN WAINWRIGHT: Yes, that's true.

18 MR. JACOB: And is there any place in the petition
19 where the SFBP has done that, actually broke down the
20 quality of the applications that they received in the
21 last round?

22 CAPTAIN WAINWRIGHT: Not that I know of.

23 MR. JACOB: I didn't see any.

24 Then to your recollection on your time with
25 the Board, did the Board also take any actions to

1 constrict or reduce the size of the applicant pool?

2 CAPTAIN WAINWRIGHT: Say that again.

3 MR. JACOB: Did the Board ever take any action to
4 actually reduce the size of the applicant pool?

5 CAPTAIN WAINWRIGHT: By the word "pool" do you
6 mean --

7 MR. JACOB: The size of the number of applicants.

8 If I may direct you to Exhibit 29, that
9 might refresh your memory. Then we had a conversation
10 about the issue of adding fees to training exams.

11 CAPTAIN WAINWRIGHT: Yes.

12 MR. JACOB: Right. As you might see it is labeled
13 at the bottom of Page 4 of this bill analysis, both PMSA
14 and the bar pilots' joint response to this bill because
15 of issues of the Commission about whether or not we had
16 a bunch of lookie loos taking the exam that didn't
17 intend to be pilots, sit for the exam.

18 CAPTAIN WAINWRIGHT: That's fair.

19 MR. JACOB: I would not suppose you would be
20 aware, but go ahead and direct your attention to item
21 31. Were you aware that the training per diem had been
22 increased by the Board in 2014?

23 PRESIDENT JOHNSTON: What was that question?

24 MR. JACOB: If he was aware that the training per
25 diem had also been increased by the Board in 2014.

1 CAPTAIN WAINWRIGHT: No. Where should I be
2 reading?

3 MR. JACOB: On Page 4.

4 CAPTAIN WAINWRIGHT: Sorry.

5 MR. JACOB: That's okay.

6 CAPTAIN WAINWRIGHT: No.

7 MR. JACOB: From time to time, we both served on
8 the Finance Committee. This isn't the first time that
9 trainees have been approved for an increased period of
10 time. To your recollection, has that ever been opposed
11 by industry?

12 CAPTAIN WAINWRIGHT: I don't remember being in any
13 arguments with you over it.

14 MR. JACOB: That makes two of us. Thank you.

15 And just as a regular pilot who's no longer
16 on the Board, do you have any reason to disagree with
17 the findings of the exam -- which we included in our
18 petition by comments from the Executive Director. Just
19 as a pilot not on the Commission, would you have any
20 reason to doubt that this was a successful exam and that
21 the trainees that we received were well qualified from
22 the last exam?

23 CAPTAIN WAINWRIGHT: I'd agree.

24 MR. JACOB: Okay, great. Thank you.

25 PRESIDENT JOHNSTON: Any rebuttal?

1 MR. PAETZOLD: Just one question on redirect. Are
2 you aware whether or not fees were charged to take the
3 2014 exam?

4 CAPTAIN WAINWRIGHT: No. I would only assume.

5 MR. PAETZOLD: Assume what?

6 CAPTAIN WAINWRIGHT: That fees were charged based
7 on rulemaking that the Board went through.

8 MR. PAETZOLD: Can I just state a stipulation that
9 no fees were charged?

10 MR. JACOB: We'd agree.

11 MR. PAETZOLD: Thank you. No further questions,
12 thank you.

13 CAPTAIN WAINWRIGHT: Thank you.

14 PRESIDENT JOHNSTON: Questions by the
15 Commissioners? Connolly.

16 VICE PRESIDENT CONNOLLY: Thank you, Captain
17 Wainwright. In your testimony, so the eligibility rules
18 were changed to broaden the trainee pool, but that
19 attempt failed at least for the last trainee cycle,
20 correct? Is that basically what you are saying?

21 CAPTAIN WAINWRIGHT: Well, I can't say that. When
22 Mr. Jacob asked me I think his words were -- I can't
23 remember if it was success or if it worked. But based
24 on what we, as the Committee, intended, no. We thought
25 we would get the next bar to go up.

1 VICE PRESIDENT CONNOLLY: And that's in 2013?

2 CAPTAIN WAINWRIGHT: Well, the real rulemaking
3 committee worked in place during '11 and '12. And just
4 as I finished as commissioner, the document was
5 complete. And then we went to public comment process,
6 office of administrative law.

7 VICE PRESIDENT CONNOLLY: Isn't it possible that
8 they're based on the confusion because new rules and old
9 rules, that the new rules may improve eligibility,
10 broaden the pool in the future? In other words, can it
11 work down the road?

12 CAPTAIN WAINWRIGHT: Well, yes. We're hoping it
13 will.

14 PRESIDENT JOHNSTON: Mr. Connolly, can I
15 interject. Will you put the last slide in? That 33 is
16 deceiving, in that's not the number of applicants that
17 submitted their requested to be resumed. Executive
18 Director, is it 56 applications we've gotten?

19 EXECUTIVE DIRECTOR GARFINKLE: We got over 50
20 applications. This slide says those who took the exam.

21 PRESIDENT JOHNSTON: Okay.

22 MR. PAETZOLD: If I might add, it certainly was
23 not intended to be deceiving. The question that we were
24 trying to see is of those who are eligible who actually
25 came and took the exam. I think the Executive Director

1 provided you with a number, I think it was 38 were
2 ultimately found to be eligible, but not all showed up.

3 PRESIDENT JOHNSTON: That's correct. Three did
4 not show up for the exam.

5 VICE PRESIDENT CONNOLLY: Can we go back to what I
6 call the lookie loos. To go back now to the fee, that
7 expectation is that it is going to reduce it if not
8 eliminate it. What does that indicate to you? Why were
9 they doing that? Why was that a problem?

10 CAPTAIN WAINWRIGHT: Commissioner, I think a lot
11 of that was anecdotal; that we were hearing stories, as
12 I recall, from -- I don't even remember where. It must
13 have come out of one of the committees that would have
14 been trainee training for -- wait. What committee,
15 maybe PEC, that they sensed that -- or had information
16 that applicants were coming in and taking the test. And
17 I think that the inference was that they were taking
18 information from the test and then passing it to someone
19 else either for the next test. I'm not sure.

20 PRESIDENT JOHNSTON: They were passing it on to
21 other ports that were taking the exam.

22 CAPTAIN WAINWRIGHT: So I'm not perfect at this,
23 but if definitely came from another committee to the
24 general Board that, Listen. Something's going on here.
25 We need it do something about it.

1 VICE PRESIDENT CONNOLLY: Okay.

2 CAPTAIN WAINWRIGHT: Then we got recommendations
3 from the subcommittee.

4 VICE PRESIDENT CONNOLLY: In your many years here,
5 you've met and worked with an awful lot of trainees.
6 You should be able to have some idea of their options.
7 Clearly these are talented mariners, and there's
8 competition for their services; is that correct?

9 CAPTAIN WAINWRIGHT: Yes, there is.

10 VICE PRESIDENT CONNOLLY: What are some of the
11 other options they have? Presumably other pilot
12 organizations; but are there other things, too?

13 CAPTAIN WAINWRIGHT: Other pilot organizations,
14 pretty much. I think you can say -- I would generalize
15 and say that breed is looking to pilot. I know that's
16 what I was doing. And I was looking at places, you
17 know.

18 And you're in a circle of guys -- or what
19 could be guys and girls -- that are talking about it,
20 you know, exchanging information. Hey, so and so went
21 down to Florida and is taking the exam down there, and
22 so and so got into Texas.

23 So I don't know if that answers your
24 question, but pretty much when you enter that social
25 group, intellectual group, you're exchanging information

1 and everybody knows that there's a number of options,
2 Generally piloting.

3 VICE PRESIDENT CONNOLLY: Okay, thank you.
4 Nothing further.

5 PRESIDENT JOHNSTON: Mr. Connolly, the final
6 list -- Executive Director correct me. 15 on the list
7 for passing the exam. In some cases the executive
8 director came and approached people and said Well, we're
9 going to have a vacancy. A couple people said, well I
10 found another career. All of the sudden I don't want to
11 join the pilot training program. So you go down the
12 list.

13 So being on the list was no guarantee that
14 they were going to go through the pilot training
15 program. It was just the availability list when someone
16 retires. Questions by the commissioners. Mr. Long?

17 COMMISSIONER LONG: Captain Wainwright, in the
18 rulemaking process or the process of the Ad Hoc
19 Committee -- working for the Ad Hoc Committee, did you
20 guys do any kind of analysis or comparison between the
21 earnings of, say, a deep-sea master versus the earnings
22 that are associated with the training stipend in the
23 training program? And did you do a similar comparison
24 for a tugboat master versus the earnings that they
25 receive in the form of a stipend training program?

1 CAPTAIN WAINWRIGHT: Well, I'm at a little
2 disadvantage. You've got something front of you. But
3 this was fundamental to our discussion. Would an
4 offshore master be willing. So we're constantly talking
5 about that difference in dollars. And I don't know if
6 there's record if we did a particular study or not.

7 PRESIDENT JOHNSTON: The pilot trainee knew
8 exactly what he was going to get if he was accepted into
9 the program, \$5,000 per month. This increases it to
10 \$6,000.

11 COMMISSIONER LONG: Right. So \$5,000 or \$6,000.
12 Either case, that's what the stipend is for a trainee in
13 the trainee program which can last one to three years.

14 In your guys's work on this subject, do you
15 recall was there a discussion of what the earnings of a
16 deep-sea master were in their career?

17 CAPTAIN WAINWRIGHT: I can't say that we -- or I
18 can't say that I remember that we actually worked hard
19 on one was at X and one was at X divided by two.

20 COMMISSIONER LONG: Okay.

21 CAPTAIN WAINWRIGHT: That may have been the case,
22 but the part of the discussion is if he's been doing it
23 for 25 years. Or if it takes him 19 years to get two
24 years of offshore experience, how many pension credits
25 does he accrue, how far along is he willing to drop

1 everything to start all over at that age.

2 COMMISSIONER LONG: Okay, thanks.

3 PRESIDENT JOHNSTON: Any other questions?

4 COMMISSIONER SCHNEIDER: One more. Thank you for
5 sharing your experience with us here today. I just have
6 one question. We're here for a rate hearing and it is
7 about the pilotage rate. I mean, my understanding is
8 that your testimony is to support the fact that
9 increasing the pilotage rates is going to attract and
10 hold training new pilots into the program. The reason
11 for this testimony is to support that fact. So, I mean,
12 an increase in the pilotage rate, how is that going to
13 help hold and attract trainees to the program?

14 CAPTAIN WAINWRIGHT: That's right. Is it a
15 question?

16 COMMISSIONER SCHNEIDER: I'm asking -- so we're
17 here for rate hearing to increase the tariff. So by
18 increasing the tariff and increasing the revenue, how is
19 that going to result in holding and attracting pilots to
20 the trainee program?

21 CAPTAIN WAINWRIGHT: I don't think it is a
22 science, otherwise the regulation would probably say if
23 you raise the rate this much this many people will
24 arrive. I think it is more of an art. And I think
25 that's why I'm here, for a sense of what I worked on on

1 the Recruitment Committee, but also my sense of what it
2 was like to be a trainee, what my sense of what the
3 market is, who I see coming and going. And so I think
4 that's more of the answer the Board comes up with, will
5 be more of an art than it is science.

6 COMMISSIONER SCHNEIDER: Okay, thank you.

7 CAPTAIN WAINWRIGHT: Okay.

8 PRESIDENT JOHNSTON: Thank you. Any other
9 questions by the Commission?

10 COMMISSIONER LIVINGSTONE: Using PMSA's Exhibit 24
11 in opening statement regarding total trainees, we talked
12 about looks about 25 percent attrition rate, one of
13 four. That's the statement that they've given here in
14 Exhibit 24. I want that on the record for you, David,
15 when you're looking at that.

16 The exam that was just taken, in your
17 statement you say 25 passed the exam. That would be the
18 written exam? 25 passed the written exam?

19 BOARD COUNSEL EAGAN: I don't know if I ever made
20 that statement.

21 COMMISSIONER LIVINGSTONE: Or Steve. So the
22 statement in this declaration --

23 CAPTAIN WAINWRIGHT: I should add at this point
24 that at the prehearing conference it was determined that
25 Captain Rogers' declaration should not be admitted

1 because he was within a year of having served on the
2 Commission. So the commissioner should not consider
3 that declaration or anything in it.

4 COMMISSIONER LIVINGSTONE: Okay. David, Captain
5 Wainwright, do you know how many people took the test,
6 that came in to take the test that we just had?

7 CAPTAIN WAINWRIGHT: Yes I do, and I confirmed
8 that number. That number was 38.

9 COMMISSIONER LIVINGSTONE: Do you know how many
10 passed the written test?

11 CAPTAIN WAINWRIGHT: That number is 25.

12 COMMISSIONER LIVINGSTONE: How many slots were
13 going to be filled going into the exam?

14 CAPTAIN WAINWRIGHT: Wait. What's the question,
15 because I think I'm --

16 COMMISSIONER LIVINGSTONE: I'm just trying to
17 confirm some facts. How many people took the test and
18 how many people passed the written, and you're saying
19 25. There were a certain number of slots the Commission
20 was looking to fill or not from that exam, trainee
21 positions. Were there 10, were there 12, were there 13?

22 CAPTAIN WAINWRIGHT: No. Again, that is not --

23 COMMISSIONER LIVINGSTONE: How many trainees were
24 accepted into the training program?

25 CAPTAIN WAINWRIGHT: I don't think that the way

1 the testing and the --

2 COMMISSIONER LIVINGSTONE: I'm asking the wrong
3 question. How many trainees entered the program, were
4 accepted into the training program?

5 PRESIDENT JOHNSTON: Finally approved and put on a
6 list, I believe was 15. Allen?

7 EXECUTIVE DIRECTOR GARFINKLE: I'm not sure I'm
8 supposed to be testifying to that.

9 COMMISSIONER LIVINGSTONE: Do we have --

10 PRESIDENT JOHNSTON: Let's say hypothetically 15.
11 There were no vacancies at that time.

12 COMMISSIONER LIVINGSTONE: Bad question. So once
13 the candidates got through the written test they had a
14 better than fifty-fifty chance just on statistics of
15 becoming a pilot, before they went into this simulation
16 exam. Is that something that should worry us? Meaning,
17 before the testing finished you've got a fifty-fifty
18 chance of walking into the job.

19 CAPTAIN WAINWRIGHT: What do you mean, walking
20 out? Now you're asking me to do Board's work.

21 COMMISSIONER LIVINGSTONE: I think there is a
22 problem, and I don't know what the answer is. But it is
23 not good what the odds of becoming a pilot are
24 fifty-fifty, just walking through the door of a first
25 written exam. I don't know what the answers are. I'm

1 saying we have a problem that concerns me.

2 CAPTAIN WAINWRIGHT: You keep talking, they'll put
3 you in charge of a Committee.

4 PRESIDENT JOHNSTON: Excuse me. Please correct me
5 if I'm wrong. They get a kind of a letter, you know,
6 explaining the pilot training program. And I believe in
7 that letter is saying there's no guarantee that you're
8 going to get into the pilot training program. And if
9 you go into it you graduate from the program, there's no
10 guarantee you're going to be a pilot or become a pilot
11 until there's a vacancy. It's very clear.

12 COMMISSIONER LIVINGSTONE: So it's very concerning
13 that we have a very limited number of people.

14 PRESIDENT JOHNSTON: Depends on what the attrition
15 rate is among the pilots. Mr. DeAlba?

16 EX OFFICIO MEMBER DEALBA: One question for you.
17 In your ratio of five to two on sort of the retaining
18 pilot trainees, are you aware of any instances of a
19 trainee leaving to go to another pilot training program
20 outside the state?

21 CAPTAIN WAINWRIGHT: Let's get to apples and
22 apples. So, do you mean if a pilot from the eligibility
23 list was offered a spot, took the spot, entered the
24 training program and was an active trainee then turning
25 around and leaving and going to another program?

1 EX OFFICIO MEMBER DEALBA: Say I'm on the
2 eligibility list and I decided to take myself off of the
3 eligibility list because I want to go and take the exam
4 at Puget Sound to become a Columbia River pilot. Are
5 you aware of any instances like that where a pilot will
6 take them themself off -- in other words, are you aware
7 of anyone who said, Hey that's a better program over
8 there, I want to go be a pilot in that area in another
9 pilotage jurisdiction?

10 CAPTAIN WAINWRIGHT: My assumption is that that
11 happens all the time. Those deferrals, these are
12 competent mariners. They're in this part of their
13 career where they're taking tests and federal exams for
14 federal endorsements. They're looking around trying to
15 get into an association. And yes, once they're on that
16 list there's normally a couple deferrals.

17 And the assumption when I was on the Board,
18 they've either made another life decision, go to law
19 school or be a stay at home dad, or go to another pilot
20 association. I think that's one of the possibilities.

21 EX OFFICIO MEMBER DEALBA: Thank you.

22 PRESIDENT JOHNSTON: Clarification. If they were
23 a list here and wanted to apply for the Columbia
24 Bar/River, they would have to go through Columbia
25 Bar/River's process, take their exam. Passing the exam

1 here will not make them eligible.

2 EX OFFICIO MEMBER DEALBA: I understand. Thank
3 you.

4 COMMISSIONER LONG: One last one.

5 PRESIDENT JOHNSTON: Please.

6 COMMISSIONER LONG: Captain Wainwright, correct me
7 if I'm wrong. There was a substantial increase in the
8 advertising or the marketing for this selection process
9 compared to previous. The Board opened up the rules,
10 broadened the net and then combined those broadened
11 rules with old rules for this selection process. Would
12 you say that's a yes on those?

13 CAPTAIN WAINWRIGHT: I would like to say yes on
14 all those things, except I'm only making the assumption
15 about the advertising plan, the advertising net was
16 larger. I'm only making that assumption, because we had
17 conversations with staff to get the word out to try
18 harder. And I can only assume that they did. I don't
19 know. I can't compare the list of advertisers.

20 COMMISSIONER LONG: In regard to the confusion
21 as to which set of rules applied for the selection
22 process, did you attend any of the public meetings in
23 connection with the rule change, i.e., the meeting where
24 the public comments that were received were addressed by
25 the Board?

1 CAPTAIN WAINWRIGHT: I did. I was off the Board
2 by then

3 COMMISSIONER LONG: You attended that meeting?

4 CAPTAIN WAINWRIGHT: Yes, I did.

5 COMMISSIONER LONG: Was that meeting attended by
6 members of the public who were being impacted by the
7 rule change?

8 CAPTAIN WAINWRIGHT: Oh, yes. That was the
9 significant voice.

10 COMMISSIONER LONG: How many of them would you say
11 there were?

12 CAPTAIN WAINWRIGHT: Speaking, I'd say six loud
13 voices and then maybe two really loud. One dozen people
14 seated.

15 COMMISSIONER LONG: Based on what you heard at
16 that meeting, was it your sense that the word had gotten
17 around at least to local maritime community if there was
18 a rule change? Did they pay attention?

19 CAPTAIN WAINWRIGHT: Oh, yes.

20 COMMISSIONER LONG: That's all I have. Thanks.

21 PRESIDENT JOHNSTON: Thank you. Any other
22 questions?

23 MR. PAETZOLD: To the extent that the
24 commissioners really wanted accurate data as to how many
25 people applied in 2014, how many people were being

1 qualified, how many took the written test, how many
2 people took the simulated test. My recommendation would
3 be to ask the Executive Director. That would be the
4 most accurate source of information.

5 PRESIDENT JOHNSTON: I did, and I don't think he
6 complied with that request.

7 Okay. We are at 3:20, and ask Executive of
8 the Board and Counsel whether you want to continue or
9 would you rather adjourn, recess until tomorrow morning?

10 MR. JACOB: We have an exceedingly short
11 presentation. If you need to take a break we can,
12 otherwise we can proceed directly into it.

13 PRESIDENT JOHNSTON: Okay, let's continue.

14 COMMISSIONER LONG: How about a five-minute break?

15 PRESIDENT JOHNSTON: Sure.

16 BOARD COUNSEL EAGAN: Allen, do you have that
17 information now?

18 EXECUTIVE DIRECTOR GARFINKLE: Yes, I do. That of
19 52 applicants to the 2014 exam 38 were eligible to sit
20 for the exam. 33 actually sat, 25 passed the written
21 exam and 13 were placed on the eligibility list to be
22 considered in the order of their scores, considered to
23 be taken into the program. Of those, six have been
24 accepted into the program.

25 MR. JACOB: Let's take a five-minute break.

1 PRESIDENT JOHNSTON: Yes, let's take a five-minute
2 break.

3 COMMISSIONER LONG: Thank you.

4 (Off the record.)

5 PRESIDENT JOHNSTON: Back on the record. Mr.
6 Jacob?

7 MR. JACOB: Thank you, President and
8 Commissioners. PMSA intends to rest on its written
9 response and all supporting evidence and statements made
10 in both opening and closing statements in this hearing.
11 Mindful of the Board's time and resources and limit and
12 scope of the petition, we would only be calling a
13 witness to authenticate our written evidence. But
14 because the Board has admitted all of our declarations
15 and evidence on both sides of the prehearing order,
16 there's no need to do so.

17 WSPA is listed as a potential witness in our
18 presentation. They'll be presenting their comments
19 separate and apart from ours during the public comment
20 period. While we're presenting the testimony, we would
21 obviously be happy to take questions from the Board with
22 respect to any of our arguments either submitted or in
23 our opening briefs, as long as that is appropriate and
24 consistent with prehearing order or as the San Francisco
25 Bar Pilots' counsel stipulates.

1 PRESIDENT JOHNSTON: Thank you, Mr. Jacob. It is
2 open to the commissioners if they have questions for
3 Mr. Jacob.

4 VICE PRESIDENT CONNOLLY: I don't want to drag
5 this out, but I wanted to ask you about -- on Page 27 of
6 your brief you talked about the recent labor dispute,
7 how that affected the costs of -- it may be a short bump
8 in the road. But at the same time you also talked about
9 how California State agencies of which this Board is a
10 component must quote marginalized cost in order to say
11 ahead of the increasing competition and support the
12 state's economic growth.

13 And I wanted to get your impression of the
14 overall industry competition with the Board. I know
15 also in your findings that study from Oakland about
16 leakage to Long Beach. Could you elaborate on that?

17 MR. JACOB: Yes. Thank you, Commissioner
18 Connolly. I think it's probably said well by the pilots
19 in their petition that these issues are unsettled, and
20 we would certainly agree with that. Certainly, we've
21 seen a trend of loss of market share in terms of total
22 amount of improvement for California ports since 2006.
23 In general, that trend is consistent with Port of
24 Oakland as well.

25 So we're concerned on a macro level about

1 loss of market share. And we think the California State
2 Transportation Agency recognizes that state policy of
3 trying to actually maintain some competitiveness.

4 And we also know that's in the best interest
5 of the bar pilots. And they've made that exceedingly
6 clear as well that they benefit from more ship traffic,
7 as well. And I think everyone agrees with that.

8 The crux of your question, we don't know
9 what the long term effects of the labor disruptions are.
10 But we do know in the short term we've included several
11 different articles to this effect, and the pilots
12 testified directly to it in their petition as well with
13 respect to localized effects. Ocean carries have lost
14 over \$150 million as a result of the disruption and the
15 extent of the elongated negotiations with the ILWU.

16 So it is an issue that has effected
17 everyone, and we're frankly waiting to see what happens
18 when you pick back up. Fortunately, January and
19 February are usually slow months for us in terms of
20 total tonnage anyway. And we'll see once we're back to
21 peak season if we get back where we're supposed to.

22 VICE PRESIDENT CONNOLLY: Thank you. The other
23 question, I'm wondered if you would agree with Captain
24 McIsaac's testimony that there has to be a levelling off
25 of GRT at some point. And I think that's an elemental

1 part of the argument, that there's the going to be an
2 increase based on ever increasing size of ships anyway,
3 without a rate increase. But would you agree that there
4 has to be a levelling off at some point?

5 MR. JACOB: At some level if you don't have a
6 significant infrastructure upgrade or change in
7 hydrography or the actual geography of our port,
8 absolutely. You're going to get to a place where there
9 will not be super post Suez max container vessels coming
10 to Oakland. It is not going to happen. But the overall
11 fleet composition in the meantime will develop and
12 maintain a level of growing bigger.

13 So even if you aren't having all 13,000,
14 14,000 ships, the 8,000, Ts will move up in class as
15 well. You won't have as many fours. And then we're
16 already seeing that. So I think a lot of what Captain
17 McIsaac's testimony was spot on with respect to moving
18 forward. That's something to look for. But I think in
19 the short-term, I think we're all agreeing certainly
20 we've agreed with the pilots in our argument that at
21 least for 2019 the scope and horizon of this rate
22 setting, there will be more larger ships coming. We
23 haven't seen reasonable evidence to hit a levelling off
24 point.

25 VICE PRESIDENT CONNOLLY: I also note in the your

1 brief an important point that an increase in rates is
2 going to affect pension. Can you elaborate on that a
3 little bit?

4 MR. JACOB: Yes. So the issue with the pension is
5 that it is an unfunded, defined benefit pension which
6 derives its liability directly from average net income
7 of retiring pilots. So if there's a bump in average net
8 income as a result of the rate increase, you will have a
9 bump in liability. That liability it is an unfunded
10 plan. It is paid directly through a pass through
11 surcharge on vessels. So that's what we see in the
12 secondary effect, the ballooning of that potential
13 liability that's going to be passed through.

14 So that cost reverberates. It is not
15 instantaneous, not a direct pass through. It doesn't go
16 up immediately just because the rate goes up, but it
17 goes up as well as -- at the same rate as
18 total liability every quarter.

19 VICE PRESIDENT CONNOLLY: When you say unfunded
20 you mean there's no pool of money set aside for this, it
21 is just coming directly out of the rate?

22 MR. JACOB: Right. There's no fund. There's
23 literally no fund. It is not underfunded, it is
24 unfunded. So the way the statute is set up, it is a
25 specific pass through where that account has to clear

1 every quarter with respect to what comes in has to come
2 out.

3 So that process is strictly based on
4 liability. It is not based on overall appreciation of
5 that.

6 VICE PRESIDENT CONNOLLY: So then it follows too,
7 then, that there's no problem with that because there's
8 no fund, there's no -- it is not like unless red zone
9 like a traditional benefits plan subjected underfunded,
10 right?

11 MR. JACOB: Fined or find? No, it can't be fined
12 for being underfunded.

13 VICE PRESIDENT CONNOLLY: I must have misspoke. I
14 meant the pension plan as it is is not in trouble. Even
15 though it is unfunded it is not under any pressure of
16 compliance with any regulation or with any funding rule
17 or anything like that, right, it's not like a
18 traditional defined benefit?

19 MR. JACOB: As far as we know. We actually have a
20 pending request with the Department of Labor to answer
21 that question for us. Is it subject to ERISA and
22 federal pension rules? We don't know. So it could
23 potentially be an issue. It could potentially just be a
24 straight issue of what's the actual security in the
25 pilots pension right now is future ship traffic.

1 So to us that's not a case of healthy
2 defined benefit. The joke would be don't be the last
3 ship in because you won't be the last ship out. But,
4 you know, be that as it may, as long as there is ship
5 traffic and it is generating revenue then the liability
6 is going to be paid.

7 VICE PRESIDENT CONNOLLY: Thank you.

8 Last thing on the CPI on Page 22 of your
9 brief, I'm trying to reconcile what is in the Cohen
10 Declaration and what is in your brief about the middle
11 of the page, that middle paragraph you have over that
12 period of 2002 to 2014 an increase of 30.6 percent; is
13 that right? I thought it was in the Cohen Declaration,
14 20 or so.

15 MR. JACOB: Is that a typo? If it is, I
16 apologize. I'm just turning to the Cohen Declaration
17 now, Exhibit B. Yes, you're right. That is a typo.
18 Oh, no. It is 30.6. 2002 to 2014 the annual change San
19 Francisco metro area, the total change 30.6 percent,
20 2002 to 2014.

21 VICE PRESIDENT CONNOLLY: Okay. Must have been a
22 different period I was looking at.

23 MR. JACOB: Okay.

24 VICE PRESIDENT CONNOLLY: No further questions.

25 MR. JACOB: Thank you.

1 PRESIDENT JOHNSTON: Any other questions by the
2 Commissioners?

3 COMMISSIONER LIVINGSTONE: Mr. Jacob, I've got a
4 question on CPI. Does CPI include cost of housing, or
5 is it a separate index?

6 MR. JACOB: I do not know.

7 COMMISSIONER LIVINGSTONE: While we're on it,
8 could I turn your attention to item 36, Tab 36?

9 MR. JACOB: Yes, sir.

10 COMMISSIONER LIVINGSTONE: I apologize for the
11 procedural -- I'm learning. Could you answer some
12 questions for me on this? If I just ask you a straight
13 question on this particular tab rather than me
14 reading --

15 MR. JACOB: I'm happy to give you some
16 argumentative answers. I can't further authenticate
17 this.

18 BOARD COUNSEL EAGAN: The lawyers probably are in
19 the minority, which is not generally the case. But in
20 our commission meetings as I indicated earlier, in a
21 more orderly world the attorneys don't testify as to
22 facts or even opinions. They argue from what the record
23 has in it.

24 But on the other hand, I'm sensitive to the
25 needs of the commissioners to try to develop some sense

1 of what's going on here, and so fire away. Understand,
2 though, that this is not evidence.

3 Mr. Paetzold, do you have any comment on it?

4 MR. PAETZOLD: I have no objection to moving
5 things ahead.

6 COMMISSIONER LIVINGSTONE: Mr. Jacob, if I read
7 this correctly in 2010 the Port of Industry approved a
8 seven-percent increase for the Port of Long Beach
9 Pilots. January 1st, 2010; is that correct?

10 MR. JACOB: That's what it looks like.

11 COMMISSIONER LIVINGSTONE: Then on July 1st, 2010,
12 the same body approved an eight-percent increase in
13 their tariffs?

14 MR. JACOB: That is also correct.

15 COMMISSIONER LIVINGSTONE: And then if I read this
16 part, it is a little confusing for me. But here in this
17 year June of 2014 there is a 10-percent increase in
18 pilotage charges approved by the Port of Industry for
19 the Port of Long Beach. That would be effective
20 June 1st.

21 MR. JACOB: That's right.

22 COMMISSIONER LIVINGSTONE: Then this -- an
23 approximate 35-percent increase is approved in existing
24 gross tonnage charges. Am I reading that correctly, as
25 well from 0.0043 to a 0.0062, so about a 35-percent

1 increase was approved.

2 MR. JACOB: Is that right?

3 COMMISSIONER LIVINGSTONE: I think that is a list
4 an increase in the existing gross tonnage charge, so two
5 separate increases.

6 MR. JACOB: That's right.

7 COMMISSIONER LIVINGSTONE: And then just that last
8 sentence of that paragraph under "Requested Action,"
9 apparently pilots agreed that this was needed to provide
10 safe, proficient, professional and environmentally
11 friendly service.

12 MR. JACOB: I think to get to the crux of your
13 question, Commissioner, we included this as part of our
14 record to make the argument that the Port of Long Beach
15 views itself in competition comparable with the Port of
16 Oakland. And in that regard, any number of increases
17 that might look large on the percentage by percentage
18 basis, in reality with respect to what is actually paid
19 by vessel significantly lower than it is here.

20 COMMISSIONER LIVINGSTONE: The Port of Long Beach
21 considers itself competition with the Port of Oakland?

22 MR. JACOB: Absolutely.

23 COMMISSIONER LIVINGSTONE: Do we know how many
24 containers the average ship unloads in Long Beach versus
25 Oakland?

1 MR. JACOB: I have speculations, but I will tell
2 you that it is higher by a significant degree.

3 COMMISSIONER LIVINGSTONE: I would content there's
4 no competition. They win hands down. Anyway, I'm done.
5 Thank you.

6 MR. JACOB: Thank you.

7 PRESIDENT JOHNSTON: Commissioner Long?

8 COMMISSIONER LONG: Another one for you.

9 MR. JACOB: Sure.

10 COMMISSIONER LONG: I'm looking at Page 24. And
11 in the middle of the page is a little table with
12 comparison of total pilotage page the by ULCV per E
13 pilot dispatch, Exhibit 33.

14 MR. JACOB: Uh-huh.

15 COMMISSIONER LONG: Calculations are in the back.
16 The figure at the top under MSC Aurora, \$17,499.

17 MR. JACOB: I'm sorry, you're looking at 24?

18 COMMISSIONER LONG: Page 24.

19 MR. JACOB: I'm sorry. I was in Exhibit 24. My
20 apologies.

21 COMMISSIONER LONG: Exhibit 33, Page 24.

22 MR. JACOB: Yes, sir. Fee paid by the MSC Aurora
23 \$17,499.

24 COMMISSIONER LONG: That is taken from Captain
25 Tylawsky's declaration?

1 MR. JACOB: That's right.

2 COMMISSIONER LONG: That figure includes all the
3 surcharges?

4 MR. JACOB: That's right.

5 COMMISSIONER LONG: Then you subtract the various
6 fees associated with move -- or the expenses to move,
7 pilot cost, etcetera, etcetera. And you arrive at
8 \$15,280.

9 MR. JACOB: Right.

10 COMMISSIONER LONG: Now that's described the left,
11 the net revenue to SFBP per ULCV move. The surcharges
12 don't go to SFBP?

13 MR. JACOB: They are certainly paid to the pilots
14 on the invoice.

15 COMMISSIONER LONG: Now, you're right.

16 MR. JACOB: Is that your net income no?

17 COMMISSIONER LONG: Okay.

18 MR. JACOB: But this is not supposed to be an
19 expression of what your income is. So if there's any
20 confusion, I apologize. The net is with respect to what
21 are these expenses that you're talking about with
22 respect to the cost of providing the service to the
23 ULCV. So yes, absolutely, you should deduct out
24 whatever additional -- if you want to derive income from
25 that you should definitely subtract out whatever

1 additional surcharge you have there.

2 COMMISSIONER LONG: Okay. I guess I was just
3 concerned to the extent this may represent the revenue
4 that goes to the SFBP versus the revenue that passes
5 through SFBP's hands and is then distributed to other
6 places.

7 MR. JACOB: I think that's a fair criticism.

8 COMMISSIONER LONG: I did a little math. I came
9 up with \$11,441 on net revenue to SFBP.

10 MR. JACOB: That sounds about right.

11 COMMISSIONER LONG: One other question for you.
12 Towards the beginning -- this is on Page 8. And it is a
13 graph entitled, Figure F.

14 MR. JACOB: Yes.

15 COMMISSIONER LONG: "Pilotage Paid by Sample
16 Vessels."

17 MR. JACOB: Yes.

18 COMMISSIONER LONG: You've got the Cherry Galaxy
19 over here on the left, MSC Aurora on the right. Does
20 the GRT increase from left to right on this graph here
21 the way you guys arranged it?

22 MR. JACOB: I believe it does. Let me turn to
23 Exhibit 8. Just confirm that, yes. We have it arranged
24 from lowest to highest GRT.

25 COMMISSIONER LONG: So the size and the mass of

1 the ship indicated in this graph increases from left to
2 right; Cherry Galaxy being the smallest one, MSC Aurora
3 being the one with the largest of the physical
4 dimensions, largest mass?

5 MR. JACOB: Right, exactly.

6 COMMISSIONER LONG: Okay. All right. That's all
7 I have for the moment. Thank you.

8 PRESIDENT JOHNSTON: Any other questions?

9 COMMISSIONER SCHMID: I'll try to phrase this
10 correctly. I'm looking at Page 31, your marking about
11 2019 revenue coming in through from 2015, 2019. On the
12 previous page you talk about a three percent two-year
13 increase in fees, and that's based off of an increase in
14 tonnage coming in?

15 MR. JACOB: It is a derivative of tonnage. It is
16 actually -- if you turn to Exhibit 40, Commissioner, we
17 took the average of 2006 to 2014 growth in pilotage fees
18 per move of which grew over year by year an average of
19 2.1 percent. So we took that 2.1 percent and got that
20 projection there. So that is a derivative higher
21 average GRT.

22 COMMISSIONER SCHMID: Okay.

23 MR. JACOB: But it was not specifically a GRT
24 number.

25 COMMISSIONER SCHMID: We were talking earlier at

1 some point about GRT levelling out and the number of
2 those vessels, pulling this out to 2019. So are you
3 projecting that the revenue after expenses will be
4 higher in 2019, or how does this relate to expenses?

5 MR. JACOB: Yes. And so in 2019 we again
6 stipulated to \$1.8 being the right number. And in our
7 colloquy with Captain McIsaac this morning we arrived at
8 the correct increase in expenses being about \$1.8
9 million based off of the stipulation. So to the extent
10 that any of this covers \$1.8 million is covered by
11 expenses and would grow faster than that.

12 So, yes. Our assumption is that as
13 traditionally has happened and what we've demonstrated
14 over time, is that the way that the rate is set up it is
15 set to grow with ship size. So if there's no
16 expectation the ships will stop growing in size -- right
17 now there's no evidence that there's an indication that
18 they will, at least not in the next five years. The
19 pilots haven't put anything into the record to that
20 effect and certainly neither have we.

21 Then that trend will likely continue and
22 cover their expenses by our projection. So if you just
23 take that 2.1 percent which has been the historic rate
24 increase, then that's what would you end up with.

25 COMMISSIONER SCHMID: Okay. Thank you.

1 PRESIDENT JOHNSTON: Commissioner Long?

2 COMMISSIONER LONG: On the same page, we're on 31
3 right.

4 MR. JACOB: Yes, sir.

5 COMMISSIONER LONG: Going back to my earlier
6 question about the MSC Aurora and net revenues, does
7 the -- in my reading of this, your projections, the
8 second line there --

9 MR. JACOB: Right.

10 COMMISSIONER LONG: -- added ULCV revenues. My
11 reading of this is that --

12 MR. JACOB: Do you have the same reduction that
13 you mentioned earlier?

14 COMMISSIONER LONG: That figure, that \$15,280 that
15 we just discussed which includes surcharges is the basis
16 for this set of predictions here on Page 31, the second
17 one down. Because it references the same exhibit.

18 MR. JACOB: Yes, you're correct.

19 COMMISSIONER LONG: So that one might be a little
20 off.

21 MR. JACOB: So that one would be if you're in
22 the -- using the rough numbers of what you're talking
23 about earlier about \$4,000 off, \$450,000 by 2019. You
24 would be down about \$1.5 million, just roughly.

25 COMMISSIONER LONG: Okay. Can I ask you one more?

1 MR. JACOB: Sure.

2 COMMISSIONER LONG: Flipping to Page 12, Figure K
3 right in the middle there.

4 MR. JACOB: Yes.

5 COMMISSIONER LONG: Titled, "Individual Average
6 Net Income Per Move, Direct Moves Per Pilot." That one
7 line there that starts at \$3,006 and goes to \$3,172 from
8 2006 to 2014, which I understand is intended to
9 represent average net income per move during those time
10 periods.

11 MR. JACOB: That's right.

12 COMMISSIONER LONG: Would you care to speculate on
13 what that line would look like if we applied to CPI to
14 that 2006 to 2014?

15 MR. JACOB: If you applied CPI to your avenue net
16 income per move?

17 COMMISSIONER LONG: Yes, \$3,006 to \$3,172. Would
18 that line be going up or in some other direction?

19 MR. JACOB: I'm sorry, would the avenue net income
20 per move accelerate faster if you applied CPI to it? Or
21 are you trying to --

22 COMMISSIONER LONG: I'm trying to figure out if
23 that line is supposed to represent individual net
24 income. So, net income per pilot per move.

25 MR. JACOB: Uh-huh.

1 COMMISSIONER LONG: What would that line look like
2 if we applied CPI to it from the Cohen Declaration from
3 that same time period?

4 MR. JACOB: If you applied CPI to the average net
5 income that same period of time of 2006 to 2014 would be
6 higher. Maybe I'm not understanding the question.

7 COMMISSIONER LONG: Well, that's a measurement of
8 income, \$3,006 to \$3,172 over a period of eight years
9 CPI kind of went like that.

10 MR. JACOB: I see where you're getting at. Let me
11 say this. I don't think that would be an appropriate
12 calculation to make, because this is your net income
13 after your expenses. CPI growth should be probably
14 compared to your expenses as an organization. Average
15 net income what's left over. We compare it to how many
16 moves you do.

17 In general, this chart is meant to not be a
18 comparison to CPI with your income, if that's what
19 you're asking. It is supposed to demonstrate that while
20 you do fewer moves per pilot, your average net income
21 per pilot has gone up. It is not a comparison of
22 average net income per move to CPI.

23 I suppose guys could do that type of
24 comparison, but this doesn't address that.

25 COMMISSIONER LONG: Okay. That's all I have.

1 PRESIDENT JOHNSTON: Okay.

2 EX OFFICIO MEMBER DEALBA: I'm going to take us
3 back to the California Freight Advisory Committee really
4 quick.

5 MR. JACOB: Let's do it.

6 EX OFFICIO MEMBER DEALBA: On Page 26 or maybe 27
7 you refer to the Freight Mobility Plan.

8 MR. JACOB: Yes.

9 EX OFFICIO MEMBER DEALBA: Page 27. I want to
10 give you a chance to elaborate a little more on how
11 pilotage and pilotage rates would fall in the economical
12 structure and mobility plan.

13 MR. JACOB: Yes.

14 EX OFFICIO MEMBER DEALBA: I'm leaning towards
15 pilotage falling under the safety goal of the plan
16 comparable service. I want to give you the opportunity
17 to expand on that.

18 MR. JACOB: It is. We would 100 percent
19 absolutely, unequivocally agree that pilotage is an
20 essential part of the safety of our vessels coming and
21 calling in the Bay. There's nothing that we're doing
22 today that argues that they shouldn't be handsomely
23 compensated for that, that their expenses shouldn't be
24 paid. Even going with their expenses, increases should
25 be paid by vessel traffic. That's absolutely what

1 should happen.

2 In the past, we have consistently agreed
3 with pilots. If that was part of the petition, our
4 response might be different with response to navigation
5 technology surcharge, other charges that are specific
6 with safety. Those are not issues that are in front of
7 us today. It is straight across the board 18-percent
8 increase compounded to 19.25 percent for four years.

9 We don't view that as insignificant, as
10 marginalized. So with respect to the part of our
11 industry we need to encourage to grow which are larger
12 vessels coming Oakland, we need to foster a spirit of
13 competitiveness. Oakland has to compete with Long Beach
14 for cargo. I think it is losing the battle for cargo
15 with Southern California. That doesn't place us at a
16 competitive advantage.

17 So are all economic decisions equal, no.
18 Does one change in a pilot rate per se change the
19 economics for every steamship line that calls in the Bay
20 Area, no. Is it possible that additional ultra large
21 container vessels have to pay upwards of several times
22 more to call in Oakland as Southern California might not
23 be coming here, absolutely. So that's a concern.
24 That's how we would view the argument regarding economic
25 competitiveness.

1 EX OFFICIO MEMBER DEALBA: One other question,
2 maybe it is more of a comment. As sort of the is
3 missing piece here, is a comparison of compensation with
4 other pilotage services throughout the nation, which we
5 talk a lot of about rates and percentages of increase,
6 what's taking place throughout the nation. We don't
7 have an apples to apples comparison of what a pilot in
8 Los Angeles and Long Beach makes compared to the San
9 Francisco Bar Pilots' Association. Is that omitted
10 purposely or did I miss something or is that something
11 that should be looked into?

12 MR. JACOB: I can give you an argumentative answer
13 which is, I think the reason why it probably wasn't
14 included in the 11 factors is because it is very hard to
15 do. Not all pilot income across the country is public
16 like it is here. And we're thankful that the process is
17 more transparent here with respect to pilot income.

18 But it is not that great across the rest of
19 the country. It is hard to reconcile what it is people
20 are earning versus what it is they're doing. So it is
21 hard to compare the amount of time you spend on a bridge
22 here versus somewhere else. If you can compare how much
23 time you spend on a bridge versus somewhere else because
24 we don't even have that information here.

25 And then in other places in the country like

1 the Great Lakes, you're just socked in for months at a
2 time. They don't do any pilotage. And then when they
3 do they work a lot of hours at all once. There's a lot
4 of components to that. Do they all get paid the same
5 based on what is in here from the pilot's petition about
6 trying to reconcile just the rates that are paid from
7 area to area versus income? That's a whole another
8 consideration, too.

9 But the good news about the way that the
10 rate is set up is you don't have to answer that question
11 necessarily affirmatively. What the petitioning party
12 needs to show is they carry the burden to show you that
13 there's a necessity of change of rate here.

14 But it would be nice to be able to compare,
15 to that I agree in a lot of respects.

16 EX OFFICIO MEMBER DEALBA: Thank you, I appreciate
17 it.

18 PRESIDENT JOHNSTON: Any other questions?

19 COMMISSIONER LONG: Page 5, Figure at A. The
20 reason I ask this is because it kind of goes through
21 here to other parts of the document. Total pilotage
22 fees earned in the graph there.

23 MR. JACOB: Yes, sir.

24 COMMISSIONER LONG: We know there were rate
25 increases in periods between 2002 and 2006. I'm sort of

1 aware of what happened prior to '02, but do you have any
2 info on rate increases prior to '02 going back to 1995
3 or 1990, were there rate increases during that time
4 period also?

5 MR. JACOB: I don't have that in Exhibit 4 which
6 is where I derived this. Certainly there were rate
7 increases over time for various years. I'm not familiar
8 with exactly how much in each year.

9 COMMISSIONER LONG: Okay.

10 MR. JACOB: But there definitely were. But, you
11 know, our issue is looking at 2006 and 2011 forward, two
12 periods where there were no rate increases. And
13 compared to where we are now, we're at the highest
14 pilotage fees earned. So the nature of the current
15 tariff whether it needs to be increased or not is up to
16 the Board. But at least the facts show it can continue
17 to increase or derive increases in total pilotage
18 without an increase in '08.

19 PRESIDENT JOHNSTON: Anything else?

20 MR. JACOB: Thank you for your indulgence.

21 PRESIDENT JOHNSTON: Next item is evidence
22 requested by the Board shall be presented. Is there any
23 evidence by the Board that should be presented?

24 Moving on. Counsel, we do have one public
25 member that would like to make a statement? I would

1 like to ask that you come forward.

2 BOARD COUNSEL EAGAN: Ray, did you have any
3 rebuttal?

4 MR. PAETZOLD: I have a little bit of rebuttal,
5 but that can wait until after the public member.

6 MR. BJERKE: Good afternoon. My name is Guy
7 Bjerke, and I represent the Western States Petroleum
8 Association which is a nonprofit trade association
9 representing companies that explore for, produce,
10 refine, transport and market petroleum, products,
11 natural gas and other energy supplies in California and
12 for other western states.

13 WSPA appreciates the opportunity to provide
14 public comments regarding pilotage rates. Before
15 providing substantive comments, we would first note that
16 there appears to be a lack of transparency with regards
17 to this issue resulting in difficulty obtaining public
18 information necessary to fully respond to the petition.

19 For example, there should be evidence and
20 testimony on pilot workload and ship moves per pilot on
21 an annual basis itself rather than summary information
22 provided. If ship traffic is decreased, one should
23 consider the number the pilotage required to support
24 activity.

25 Our analysis indicates that reducing the

1 number of pilots even slightly would have the equivalent
2 impact of a rate increase as requested in the petition.
3 Additionally, evidence and testimony on the impact and
4 increase of the pilot pension surcharge would be
5 helpful, specifically how the current pilot pension plan
6 compares to other comparable pilot organizations.

7 In any pilot income discussion, this
8 unfunded pension liability and comparison to other pilot
9 organizations must be part of the discussion for pilot
10 compensation. WSPA supports the San Francisco Bar
11 Pilots Association and understands the importance of
12 their services in ensuring vessel safety.

13 However, based on the facts presented to the
14 Board we cannot support the petition for an increase in
15 pilotage increases. We have four substantive comments.

16 Comment one: In 2014, individual pilots
17 earned a record \$4,738 per move. Pilotage revenues
18 earned per vessel move having increased continuously
19 every year for the past 20 years. This steady increase
20 continued without any rate increase from 2006 through
21 2014 from \$4,004 per vessel in 2006 to \$4,738 per vessel
22 in 2014. One reason for this is the 1190 tariff formula
23 ties rates directly to the independent variables vessel
24 gross registered tonnage and vessel graph. Increases in
25 vessel size are directly tied to an increase in average

1 pilot revenue per vessel. This has caused the income
2 per vessel movements to increase.

3 Comment two: While the income per vessel
4 movement has increased, there has also been a decrease
5 of individual vessel moves per pilot. As a result,
6 overall revenue has increased, and the average workload
7 per pilot has decreased. It would, however, be
8 incorrect to equate the lack of a rate increase with a
9 lack of an income increase. Pilots only earn revenues
10 on a per move basis.

11 And rate only affects what a ship pays on a
12 per move basis, as a result to determine a pilot's rate
13 of income. The focus of the Board should be centered on
14 the income generated on a per move basis. From 2006 to
15 2014, the San Francisco Bar Pilots' total operating
16 income per move has increased 5.5 percent from \$3,006 in
17 2006 to \$3,172 in 2014. Simultaneously, income per move
18 has steadily increased along with ship sizes since 2006,
19 even while total moves have declined from the peak in
20 2006.

21 To isolate the rate by which income is
22 earned, it is critical to compare pilot income from year
23 to year on standardized basis. Only by standardizing
24 pilot income from 2006 in 2014 can a direct comparison
25 be made between this time period. Simply put, this

1 measurement eliminates the variable of total ship moves.
2 I 2014 an individual pilot moved an average of 143
3 ships, while in 2006 each pilot moved an average of 164.
4 This decrease in ship movements per polite is critical
5 in evaluating the current revenue structure.

6 There is now 15 percent less work to go
7 around, which will obviously result in lower income per
8 pilot if the number of pilots available to work remains
9 constant. However, upon isolating the ship movement
10 variable it turns out in 2006 while a pilots in 2006 was
11 working harder, more vessel movements, that same pilot
12 was earning less per job. In 2006, each ship movement
13 earned a pilot \$3,006, while in 2014 each move earned a
14 pilot \$3,172 per move. That's an increase of avenue net
15 income of 5.5 percent per move. This avenue net income
16 was realized without any change in the rate structure.

17 Comment three: In addition to the pilotage
18 fees, vessels pay numerous surcharges. While they are
19 all set independent rates which are the subject of this
20 petition, these surcharges are relevant to rate setting.
21 Unfortunately, the petition fails to address the
22 cumulative effect of a potential rate increase on the
23 various surcharges. These cumulative effects should be
24 examined by the Board when considering the petition to
25 increase pilotage rates.

1 Some surcharges like the pilot boat and
2 navigation technology surcharges specifically reimburse
3 pilot expenses which indirectly boost pilot net income.
4 Others like the Board operations surcharge and the pilot
5 pension surcharge are directly related to pilot revenues
6 and are a particular concern to industry.

7 The Board operations surcharge is a straight
8 percentage of total pilot revenues, thus as a pilotage
9 revenue increases so does the Board operations
10 surcharge.

11 Additionally, the petition appears to gloss
12 over the fact that pilots are covered by this
13 industry-funded pilot pension surcharge, which currently
14 stands at 19 percent for each vessel move. And the
15 Board should consider the value of the pension as an
16 integral part of the individual pilot's earnings.

17 The pilot pension surcharge is imposed on
18 vessels in order to pay the entirety of the unfunded,
19 defined benefit pension benefits to retirees. Because
20 these benefits are based on incomes of pilots and the
21 liability increased when new pilots retire, higher rates
22 will necessarily further exacerbate the existing
23 unfunded liability associated with this pension
24 surcharge which is substantial.

25 Because of these surcharges, the effects of

1 any rate increase are multiplied and result in an even
2 greater cost to vessels hiring by pilots.

3 Comment four: With respect to pilot revenue
4 versus expense ratio, revenues continue to increase.
5 However, the historical average expenses over the last
6 25 years are essentially what they were in 2014. The
7 average ratio of piloting expenses to pilot fee revenues
8 has been 33.5 percent over the last 25 years. 2014's
9 operating expense ratio is nearly the same average at
10 33.21 percent. Clearly 2006 was an unusual year. That
11 year had the lowest ratio of expense to pilotage fee
12 income of any other year over the past 25 years.

13 In summary, WSPA strongly supports the
14 professionalism of the San Francisco Bar Pilots and
15 believes that our pilots are among the best in the
16 nation. We recognize the critical importance and
17 necessity of their services in ensuring vessel safety.

18 However, based on the facts presented to the
19 Board we do not support the petition for an increase in
20 pilotage rates. WSPA and its number of companies
21 greatly appreciate the opportunity to provide comments
22 to the Commission today. Thank you, Mr. President.

23 PRESIDENT JOHNSTON: Thank you very much for your
24 comment. Could we have a copy of your -- because the
25 Court Reporter is actually here at today's hearing, I

1 will make this available to her.

2 THE COURT REPORTER: Thank you. I appreciate
3 that.

4 PRESIDENT JOHNSTON: Next is the rebuttal of the
5 San Francisco Bar Pilots.

6 MR. PAETZOLD: Thank you, Mr. President. In order
7 to streamline this process, I wonder if we can have the
8 stipulation that if the Port of Long Beach were to be
9 superimposed on the San Francisco Bar Pilot work area,
10 if you will, the surface area, that in essence a ship
11 entering the Port of Long Beach superimposed in Oakland
12 would be leaving from somewhere in the anchorage nine
13 area, that is about a two-mile distance from where pilot
14 is picked up in Long Beach before they enter the Port.
15 If we have that stipulation, it might save some time.

16 PRESIDENT JOHNSTON: Objection to that
17 stipulation?

18 MR. JACOB: Would you mind if we looked at it?

19 MR. PAETZOLD: Sure.

20 MR. JACOB: I don't have a problem with that.

21 MR. PAETZOLD: That means we can do without a
22 witness on this issue.

23 MR. JACOB: Okay.

24 MR. PAETZOLD: One of aspect of it too,
25 stipulation that there's no bar outside the Port of Long

1 Beach that has to be crossed before you enter the port.

2 MR. JACOB: Yes, so stipulated.

3 MR. PAETZOLD: I will not call any witnesses on
4 the Long Beach issue. I have several documents I'd like
5 to introduce as part of the rebuttal.

6 PRESIDENT JOHNSTON: Okay.

7 MR. CICALA: We understand there's nothing to
8 rebut. The written submission is what it is. No
9 additional witnesses were called.

10 PRESIDENT JOHNSTON: You said there's no
11 additional witnesses?

12 MR. CICALA: We don't know what the additional
13 documents are to be submitted.

14 PRESIDENT JOHNSTON: Are you going to show him the
15 documents?

16 MR. PAETZOLD: We've agreed to allow into evidence
17 a copy of Exhibit C1, which is a cost of living index
18 showing differentials in the cost of living between
19 Grays Harbor, San Francisco with regards to the one
20 applicant training program in Grays Harbor that was
21 mentioned in PMSA's presentation.

22 BOARD COUNSEL EAGAN: You said what is -- is this
23 a document that's being stipulated for introduction in
24 evidence?

25 MR. PAETZOLD: Correct.

1 BOARD COUNSEL EAGAN: Is it already in one of the
2 written presentations? I assume it is not.

3 MR. PAETZOLD: It is not. It is something we need
4 to add.

5 BOARD COUNSEL EAGAN: So this would be next in
6 order as an exhibit, then?

7 MR. PAETZOLD: Correct, 8.

8 BOARD COUNSEL EAGAN: Yes, although we probably
9 should mark the printout of your PowerPoint. Maybe that
10 should be -- do we have another 8 already?

11 EXECUTIVE DIRECTOR GARFINKLE: We do. The
12 correction to the CPI was deemed to be Exhibit 8.

13 BOARD COUNSEL EAGAN: Okay, so 8 is the CPI. I
14 would say let's treat that PowerPoint printout as 9, and
15 this would be 10. And what exactly is it again, Ray?

16 (Whereupon Exhibits 8, 9 and 10 were marked for
17 evidence.)

18 MR. PAETZOLD: This is similar to Exhibit C of the
19 Cohen Declaration which provides differentials of the
20 cost of the living between various comparable ports and
21 San Francisco. This provides a cost of living
22 differential between Grays Harbor, Washington and San
23 Francisco.

24 BOARD COUNSEL EAGAN: Okay.

25 MR. PAETZOLD: With regards to the one issue

1 raised by PMSA with regards to the applicant's training
2 program at Grays Harbor. And the other document is
3 Matson Navigation service rate increase. I think this
4 was a statement made on their website to their
5 membership or to their adjustors, and I have a copy of
6 that.

7 (Whereupon Exhibit 11 was marked for
8 identification.)

9 BOARD COUNSEL EAGAN: Exhibit 11.

10 Exhibit 12 will be the written statement of
11 the representative from the Western States Petroleum
12 Association.

13 (Whereupon Exhibit 12 was marked for
14 identification.)

15 MR. PAETZOLD: That's all we've got. Thank you.

16 BOARD COUNSEL EAGAN: What's left? Are there any
17 further Board questions? We have closing statements at
18 some point. It is now 4:30.

19 COMMISSIONER SCHNEIDER: Quick question for Ray.
20 Ray, your submittal of the geographic -- the map of the
21 Port of Long Beach, the point in submitting that is
22 what?

23 MR. PAETZOLD: Position that was taken by PMSA
24 that Long Beach should be deemed a comparable port. I
25 would simply be addressing that issue in closing

1 arguments as to why it is not a comparable port.

2 COMMISSIONER SCHNEIDER: It is not a comparable
3 port like Jacksonville, Baton Rouge, and the other ones
4 aren't. I see what you're saying.

5 MR. PAETZOLD: Yes. It is something that the
6 Board spent a considerable amount of time back when it
7 adopted the regulations to designate certain ports as
8 comparable in the regulation that deemed comparable.

9 And there are certain factors that the Board
10 should consider in adding other ports and providing this
11 information with regards to Long Beach to help put it in
12 perspective, and also to help put into perspective the
13 cost that is being charged by Long Beach Port for
14 pilotage services.

15 COMMISSIONER SCHNEIDER: Yes, thank you.

16 PRESIDENT JOHNSTON: Okay.

17 BOARD COUNSEL EAGAN: Well, I guess we're to that
18 point now. I think we're up to closing arguments. The
19 question is, when do we want to do those? I think the
20 estimate, actually, the prehearing order provided for up
21 to a half hour for each side to make a closing
22 statement. Any disposition as to when that occurs?

23 MR. JACOB: We're prepared to do it now.

24 MR. PAETZOLD: Up to the pleasure of the Board.
25 If the Board would like to proceed, we can proceed.

1 Members of the Commission, President, Opposing
2 counsel, Mike Jacob, Conte Cicala as well the members of
3 public, thank you very much for the attention that you
4 paid today as well as in preparation for this hearing.
5 I hope that you found it informational and will help you
6 in the end to make your decision that's appropriate.

7 I would like to make a couple of points with
8 regards to PMSA's argument and position. The argument
9 with regards to hourly rates, bridge time, how much time
10 pilots spend in certain activities is something that
11 really should be addressed in section 237. The question
12 of whether the right number of pilots that are licensed
13 is the right number in section 236.

14 The regulation that deals with this process,
15 the rate hearing specifically, advises that those types
16 of questions should be addressed under section 237 of
17 hearing to determine the right number of pilots. And if
18 you look at section 237 you realize why it is a more
19 complex process than simply looking at bridge hours.

20 As most of you are aware, ships do not come
21 in in a regular order. They come in bunches, there are
22 all kinds of issues that section 237 requires the Board
23 to consider when determining what the right number of
24 pilots is. In the past, the Board has not asked the
25 question and has not asked the pilots to keep track of

1 bridge hours, hours on the pilot boat, hours getting to
2 and from the ships, hours waiting for the next ship.
3 And not that the Board can't change the section 237 to
4 do that, but in the past it has not.

5 So I think the argument with regards to the
6 hourly rates is not consistent with the Board in making
7 a decision, and is not an argument that fits under the
8 section 236 rate hearing as it currently exists.

9 The Grays Harbor issue, there was no
10 evidence presented actually as to the reasons that the
11 trainee applicants left. I would submit to you in
12 accordance with Captain Wainwright's testimony, an
13 applicant may apply to more than one pilotage ground and
14 may be given an option to enter the pilotage ground
15 before he can enter the San Francisco pilot training
16 program. And in this case, apparently an applicant went
17 to Grays Harbor where among other things the cost of
18 living is substantially lower than San Francisco.

19 So trying to argue the fact that Grays
20 Harbor has a substantially lower income rate is just a
21 small part of the overall picture of what might cause
22 someone who is applying to go to San Francisco Bar
23 Pilots training program to go elsewhere what that might
24 mean in regards to process.

25 Long Beach has not been considered a

1 comparable port. PMSA argues that it should be
2 considered a comparable port because they're in
3 competition. Whether or not a port is in competition
4 with San Francisco, the San Francisco area, is not one
5 of the factors that's listed in section 236 to determine
6 what ports are comparable or not. It is pilotage
7 grounds. Could it be amended to the change that, yes it
8 can. But it hasn't been.

9 Is it something to consider under economic
10 factors? You can certainly consider it under economic
11 factors. However, it doesn't make Long Beach a
12 comparable port. It doesn't fit into that category with
13 regards to the types of pilotage that's involved. The
14 mix of traffic is different. Whether or not another
15 port is or is not a container port I don't think is an
16 issue by itself either. The question is of pilotage
17 requirements, the distance, the type of vessels
18 involved, all the different factors that are considered
19 in section 236.

20 When you look at PMSA's numbers and their
21 projections with regards to income per move, for
22 example, and to the revenue projections -- take a look
23 at the entire set of assumptions and then examine
24 whether the assumptions are sustainable.

25 I think one of the things that we all

1 recognize particularly in the last two weeks,
2 two months, first two months of 2015 is you cannot make
3 an assumption that whatever has happened in the last
4 20 years is going to continue to happen. As one of the
5 witnesses testified, number one, in the last 20 years
6 the rate increased in all but the last nine years. So
7 looking at that long of a distance is not going to tell
8 you what's going to happen in the next several years.

9 If you look at each of the factors that you
10 are required to consider, I think in the end you have to
11 come to the conclusion that there is certainly a reason
12 for a rate change. And what that rate change is is
13 ultimately going to be up to you.

14 The cost of providing pilot services as I
15 said at the beginning, we very much appreciate the fact
16 that we've been able to sit down with industry and look
17 at in quite some detail our expenses and come to an
18 agreement for purposes of this rate hearing that we can
19 use those projections. Those projections are indicated
20 by the \$1.8 million increase in expenses over the next
21 four years, four-and-a-half years.

22 Is becoming a pilot sufficient to attract
23 and hold? You heard considerable discussions about
24 attract and hold, including the types of stressors
25 involved in operating in this environment. As I think

1 Captain Wainwright quite appropriately said, we are
2 operating in a pristine environment. To pilot a ship as
3 big as some of the ships that are being piloted here in
4 relatively narrow confines. The Port of Oakland when it
5 was built, I don't think anyone ever dreamed they would
6 have ships this big coming into port. To pilot a ship
7 under these situations, these confines and feeling like
8 you're in John Muir's backyard, that's a stress that I
9 can't even imagine.

10 You saw the video of the ULCV being turned
11 around in a 1,400 diameter circle. You can't even see
12 the focus point on the shore. You're turning this ship
13 around with 150 feet on each side, a 1,200-foot ship,
14 four football fields long. And one mistake and you may
15 lose your license. That's something that has to be
16 considered.

17 This is not the same kind of pilotage ground
18 as it was with regards to the ships that are being
19 piloted even ten years ago. I'm not suggesting that you
20 have to increase the rates just to attract more people,
21 but attract and hold is one of the issues that you're
22 supposed to consider. And the risk that pilots are
23 taking these days, taking on the job of being a pilot in
24 San Francisco are different than the risks that were 10
25 years ago, 15 years ago.

1 The cost of the living index is one of the
2 requirements for you to consider. In nine years there
3 has not been a rate increase. The cost of living in the
4 Bay Area has increased by 20 percent. What does that
5 mean? Where does that fit in? That's something you
6 have to decide.

7 Rates charged for comparable services in
8 other ports. Naturally, I think anybody in your
9 position would want to know as commissioners whether or
10 not we are charging something for pilotage services that
11 is way out of line of what everybody else is charging.
12 I think what the data shows to you is just as this Board
13 found in 2011 we're right in the middle. We're neither
14 the highest nor the lowest. And the same thing with
15 regards to net income per pilot. The income paid in
16 comparable ports in 2011 the Board found was in the
17 middle with regards to the comparable ports for which
18 the data was available.

19 As Mike Jacob said, the reason that more
20 data wasn't provided at this time it is a difficult
21 process to get information about income of pilots in
22 comparable ports. It is a difficult process for both
23 sides, because most of the other pilot organizations are
24 not in a situation like this where their income is
25 public information. It is not as transparent.

1 And in the past rate hearings, much time has
2 been taken trying to figure out what does it mean if a
3 pilot earns X-amount of money in one quarter. What does
4 it include, what does it not include, what information
5 is not readily available in the public record. It is a
6 difficult process and it ends up being frustrating.

7 At the same time, if the Board found in 2011
8 that the pilot income is in the middle and the
9 comparable ports have increased their rates by
10 11 percent on average in the interim while our rates
11 have not changed, what does that mean about where we are
12 at this point in time?

13 The essence of determining pilotage rates in
14 other ports, it is one of the factors that historically
15 has been a factor that is nothing more than that. The
16 Board has not delved into how pilotage rates are created
17 in other ports. Although the question was asked by
18 Mr. DeAlba, and it may be something in the future to
19 look into, how rates are being determined in other
20 ports.

21 Economic factors affecting local shipping,
22 as I indicated in opening, that's a factor that's
23 something to consider. But it is up to the party that's
24 arguing that the economic factors are such that it
25 should affect the rate decision. And in our belief, I

1 think the evidence before you indicates that a modest
2 increase in pilotage rates should not negatively affect
3 economic factors for shipping in local areas.

4 Volume of shipping traffic, looking at the
5 bigger picture - into the crystal ball - are we going to
6 have more traffic or less? Is it going to increase in
7 size, are the ships going to continue to increase in
8 size? And is it going to happen at the same rate that
9 it used to happen? That's a significant question that
10 at every rate hearing the Board struggles with, the
11 parties struggle with.

12 We all like to be optimistic and hope that
13 things will continues to improve, but I think we all had
14 a wake up call in the first quarter of this year. Just
15 as we, the entire nation had a wake-up call between 2006
16 and 2010, the recession that we all went through.

17 The problem of course with rates and the
18 Board -- the pilots do not have the option of increasing
19 their rates. The only way they can do it is through
20 this process. And essentially the only way they can do
21 it is once a year at most. This is an opportunity to
22 evaluate what's happening so far and what kinds of
23 insurance policy, in essence, we can put in place to
24 allow the pilots to continue to operate at the level
25 they've been operating, and to be able to continue to

1 attract the best of the best.

2 That has been the goal of this Board, stated
3 goal a number of times, a goal I think the industry
4 agrees with. The challenge of piloting in these waters
5 are such that you only want to get the best, and that
6 has to be part of the mix.

7 The number of pilots available, we've
8 indicated and I've also said that if there's a problem
9 with that number, there's a process for addressing it.

10 The risk to pilots we've talked about, and
11 you are already aware of the physical risks, the
12 dangers. We have not lost pilots recently in this
13 pilotage ground, but that danger exists. I think
14 hopefully we'll get more rain, get better weather. But,
15 you know, it is a rare occasion but sometimes we have to
16 close the bar. So that means pilots have to go in
17 sometimes very hazardous conditions.

18 You are familiar with those conditions
19 changes in navigational safety equipment. You consider
20 that amount of information about what the pilots are
21 looking at, what the potential costs are in either going
22 to the next generations of portable pilot units, and the
23 equipment that's being used by the E-pilot.

24 And ultimately, this is all going to be up
25 to you to decide what is the best way to handle these

1 cost increases, and it is a concern that we expressed.

2 I'd like to close simply with a quote from
3 Matson Navigation with regards to their rate increase.

4 The adjustment -- in this case they didn't have to
5 go through a Board to ask for permission. Before the
6 adjustment is consistent with their longstanding
7 philosophy of implementing modest, incremental increases
8 if necessary to maintain the highest levels of service
9 and is identical to increases implemented in 2012, 2013,
10 2014. And this was a rate increase of 5.4 percent. My
11 submission is that the Pilots' request is not
12 inconsistent with what's happening in industry overall.

13 We very much appreciate your attention to
14 these issues, and we welcome the ultimate outcome.
15 Thank you very much.

16 PRESIDENT JOHNSTON: Mr. Jacob?

17 MR. JACOB: Thank you. We've going to have a
18 little bit of a technical shuffle here straightening
19 laptop connections.

20 But while we're doing that, I would like to
21 go to Mr. Paetzold's comments with respect to the
22 Board's patience and accomodation and also to reflect on
23 the fact that we have had a series of very positive
24 conversations with the San Francisco Bar Pilots and
25 advances here.

1 And while we reached an impasse with several
2 issues, this process is better off for being able to
3 reach several of those including our stipulated
4 expenses. So we thank the pilots for that, as well.

5 We have a short closing statement
6 presentation to go with our presentation. And just
7 initially ask the question why we are here. And again,
8 record high revenues in 2014 performing their 2011
9 income predictions which they made to this body in the
10 last rate hearing by nearly \$5 million. But what
11 they're asking for here is a substantial rate increase
12 of 19.25 percent.

13 The stated purpose of this petition from the
14 San Francisco Bar Pilots' petition in Page 5. After
15 nine straight years without a rate increase in which it
16 sets the Bar Pilots off in light of the expenses through
17 five percent annual increase in the rates. For each of
18 the years of 2016 and 2017, and a four percent annual
19 increase in those years increases 2018, 2019 thereby
20 allowing SFBP and the Board to be competitive and
21 attracting the best candidates to meet the anticipated
22 needs while providing industry and the public with rate
23 stability and foreseeability.

24 We respect that this is an entirely
25 legitimate purpose to be asking for a rate increase in

1 the context of the 236(F) rate criteria and focuses very
2 directly on expenses to pilots and attract and hold.
3 And so when we responded to those we focused on those
4 issues, as well.

5 The purpose of this hearing today obviously
6 is laid out by section 236, is to obtain information and
7 data relating to the issues raised to the petitioner's
8 notice. Why? Because the burden of proof is
9 evidentiary. It is on the moving party which in this
10 case is the San Francisco Bar Pilots to prove to you by
11 a preponderance of the evidence that a change in the
12 rates is justified. That's not a burden to be taken
13 lightly.

14 These are jury instructions. Obviously you
15 guys are not a jury, but the preponderance of the
16 evidence standard is a common one in law. And there are
17 two very easy ways to think about it. And really, at
18 the end of the day, you need to weigh all of the
19 evidence regardless of which party produced it. And if
20 there's any issue that is so evenly balanced you are
21 unable to say which side prevails, your finding on that
22 issue must be against the party that has the burden of
23 proof, and that's the San Francisco Bar Pilots in this
24 instance.

25 So what do we agree on? We agree on several

1 foundational pieces of evidence for the Board. The
2 first one is the projected expenses through 2019. We
3 stipulated those would grow to \$14.8 million by 2019.
4 We think that's an entirely reasonable and accurate good
5 faith estimation of their projected expenses.

6 And we both agree that the trend of
7 increasing vessel size will continue, driven primarily
8 by ultra large container vessels calling the Port of
9 Oakland. This is obviously Captain McCloy's graph from
10 earlier today and also included in the evidence.

11 There is no question between the parties
12 that there will not be any smaller vessels substituting
13 for larger vessels. The opposite is true. There will
14 be larger vessels coming. Captain McIsaac's testimony
15 today is they substitute for smaller vessels. In some
16 cases that's obviously true. To the extent that that
17 happens, there's no evidence in the record with respect
18 to how often that happens, why it happens.

19 And one thing that we both agreed on is
20 there will be more larger ships coming over the next
21 five years. So the simple math is that as vessel size
22 increases, pilotage income increase even when there is
23 no rate increase. And in the years gone unprecedented
24 in both in average gross registered tonnage per vessel
25 and average pilot industry for move, both at record

1 highs under the current rate.

2 If there's an example for you to take to
3 analogize on the situation, maybe a good one would be
4 realtors. The Commission is set for realtors is pretty
5 standard, six percent total to both sides. They don't
6 ask for a rate increase. The way they make more money
7 is to sell more homes, sell more homes to make more
8 money. The analogy here is pilots is are selling bigger
9 homes. They might not be selling them more often, but
10 when they sell them they sell them bigger and make more
11 money.

12 The only growth trend put into evidence by
13 the San Francisco Bar Pilots was the projection that
14 ULCVs will continue to grow. The testimony by Captain
15 McIsaac today that leave it up to you to decide what
16 their income should be because maybe tonnage won't grow
17 is not a projection that was put into evidence in any
18 written form with any background exhibits to back it up.

19 And Joe pointed out correctly earlier that
20 some of these numbers may be a little bit off with
21 respect to pilot income. But net expenses for ULCV
22 moves, if you're looking at does the E-pilot job create
23 a drag on revenue because their additional cost
24 associated with revenue the answer that to that directly
25 associated to that is no. We also ask Captain McCloy

1 today if pilots get paid more for doing E-pilot jobs.
2 The answer is also no, that pilot gets paid through
3 average net income like everyone else. So that
4 individual pilot does not receive an additional check or
5 bonus because of that.

6 And again, I appreciate Mr. Long pointing
7 out that that number is not income but total pilot
8 revenues netted expenses per ship. So to go on with
9 where we are, the overall trend on average GRT vessel,
10 that's the green line, obviously is trending upwards.
11 That's, again, the highest it has ever been.

12 A GRT total, not on a per ship basis, that
13 is that red line. You'll note that in 2006 and in 2007
14 and 2008 pre-recession, we had a pretty big bump. And
15 then you see 2009, 2010 there it just steeply retreats.

16 So we're back on our trend overall for the
17 last 20 years of what total GRT is. So even including
18 that peak, even including the recession we're back up
19 higher, closing in on 350 million GRT across the bar per
20 year, and always increasing average revenue moves always
21 reaching a record high in 2014. I don't think we need
22 to go into a whole lot of detail on this, but I think
23 for the benefit of the Board you should know that this
24 was exactly the same discussion. I thank Mr. Paetzold
25 for pointing out this has been a persistent issue

1 between the parties. Yes, it has been. The persistent
2 issue is, should the Board actually take an action that
3 reflects the fact that in all likelihood based on
4 current historical trends that there will be an increase
5 in gross tonnage? Or, should it assume that it will be
6 flat and there will be no more increase in gross
7 registered tonnage.

8 In 2011 the Board made a finding that agreed
9 these growth trends need to be acknowledged. And so we
10 would encourage you to take a look at this, and also in
11 your deliberations to include language of this sort that
12 you acknowledge in 2011 is true, and which has borne
13 itself out. If you did and you projected like the Board
14 recommended in the 2011 finding and you do that again
15 this year, you would be acknowledging that it is more
16 likely than not that substantial higher pilotage
17 revenues will occur by 2019 without a rate increase,
18 that move by 2.1 percent a year. And that would be
19 approximately \$4.4 million if you applied that to the
20 exact same number of moves you have this year, \$8,390
21 which we point out is almost dead on historically,
22 compared to moves per year.

23 If you use that top number not the bottom
24 one as Mr. Long pointed out is not a good expression of
25 income. The rates would generate \$2.6 million over and

1 above the \$1.8 million increased expenses, which would
2 actually raise this income \$43,000 per pilot. Again,
3 ignore the bottom number. But the top one if you just
4 went ahead and used the historical projection, there is
5 going to be pilot income over and above increases in
6 expenses. That's if you just look at the ULCVs based on
7 E-pilot increases.

8 Captain McCloy confirmed today that the
9 E-pilot dispatch numbers are actually low compared to
10 total moves from ULCVs. Total moves for ULCVs twice for
11 what a single move would do for most of the ULCVs that
12 have E-pilot dispatch. Again, there's some ULCV that
13 takes an E-pilot on both moves, but the testimony today
14 is that most of them do not.

15 But even aside from that, there's no
16 evidence in here of future vessel projections overall.
17 And this isn't an ULCV rate increase we're talking
18 about, this is a rate increase on everybody.

19 Your job as stewards on behalf the State to
20 set a rate for a monopoly sets rates for all vessels
21 across the bar, and all vessels on the blue card rate.
22 That's being asked for, too. And so the SFBP's petition
23 offers no evidence on future projections for non ULCVs.
24 That's a problem. And also unlike in 2011, they don't
25 offer new evidence of future pilot projections.

1 So what is the idea of a rate increase
2 supposed to give you? Hopefully it will give you an
3 idea of what future income would be. If they don't
4 offer you evidence of what they think the revenue is
5 going to be, how can we ask you to make deviations from
6 what they think that will be in the form of a rate?

7 And there's no real evidence of any written
8 kind with any issues with attracting and holding
9 qualified pilots. So I think it is worth going into the
10 evidence on this a little bit, because the evidence
11 shows there's no problem with attracting trainees. The
12 attrition rates don't have any correlation with rate
13 increases or pilot income. The number of trainees
14 doesn't have a direct correlation rate with the rate
15 increases or pilot income.

16 2014's training class having more trainees
17 than the 2004 class is that a function of income? No.
18 That's a function of the Board setting the size of the
19 training class. The response from the last exam
20 according to the Executive Director is that we have very
21 qualified candidates. The process is effective. That's
22 what we all want. We should give kudos where kudos is
23 due, to the Board's training process, exam selection
24 process to the Board and the PEC for doing a good job.

25 And one of the reasons why we have a

1 qualified candidate pool to draw from is because we
2 already have really high average income for pilots
3 compared to our applicant pool. And there's absolutely
4 no doubt about that. We submitted evidence with regard
5 to our candidate pool.

6 There's also no evidence of retaining
7 existing pilots, which is the often forgotten brother of
8 attract, hold is important, too. And the Board's
9 retirement survey they show more pilots eligible to
10 retire who intend to keep working.

11 Then everything being else being equal which
12 is what the questionnaire asks the pilots to consider
13 ensures more people would rather work. We don't think
14 that's a bad thing. You don't need to increase a rate
15 to keep people -- to induce them to continue working
16 under that circumstance.

17 The request for past expenses just does not
18 the even pass the smell test in our expectation are they
19 up compared to 2006, of course they are. We acknowledge
20 they'll increase further, of course we will. And we
21 did; we stipulated to that. But if I look at the same
22 period revenues per vessel have actually grown faster
23 than expense per vessel which means per every ship
24 moving they earn more than they used to, regardless of
25 how much their expenses went up. That means the current

1 rate is providing more than enough income compared to
2 where they were in 2006.

3 And if we want to talk about what's going
4 forward, we don't really know with respect to a lot of
5 different things. But we do know this, that compared to
6 2006 as a percentage of their actual operating income
7 and as a percentage of pilotage fees, yes, their
8 expenses are up quite a bit. You'll also notice that
9 2006 was the lowest ratio of operating expenses to
10 income ever in the last 25 years. So every point on
11 that graph -- pick a year -- is going to be higher than
12 2006.

13 Compared to the average of that 25-year
14 period that 33.5 percent, we're right there. So the
15 complaint about having higher expense especially in that
16 context with respect to your income just doesn't fly in
17 the historical context.

18 And the kicker is the expenses are almost
19 precisely where the pilots told this Board the they
20 expected them to be in 2011 when they petitioned for
21 rate increase. In 2014 they projected that they would
22 have total expenses of \$13,198,000 scenario rate
23 increase. Another one under there actually in the
24 petition where they were asking for a rate increase they
25 were projecting \$13,187,000 and the actual was

1 \$13,000,202.

2 So we're not saying they haven't had an
3 increase; we're just saying not unexpected, totally
4 normal. There is absolutely no argument that somehow
5 compared to revenues raised by the current rate that
6 their net income based on expenses is out of whack.
7 You'll also notice that when you compare average net
8 income they're actually making more than they asked for
9 in 2011. That's not a good reason to come back and ask
10 you for a rate increase either.

11 If we're actually looking through the
12 evidence under the remaining factors aside from expenses
13 and attract and hold, we don't think you guys can make
14 the evidentiary showing that's required to show that the
15 pilots actually carry their burden of proof.

16 With respect to cost of living, CPI is an
17 interesting thing to look at, and you're required to.
18 And SFBP has showed for instance that CPI has grown
19 eight percent based on the last hearing in 2011 until
20 today. And actually the evidence that was submitted
21 this morning shows CPI actually deflated a little bit.
22 But that's kind of aside from the point that over the
23 same period you're better off as a bar pilot on both
24 sides of the CPI column. Your expenses don't rise as
25 fast with CPI. That's good from the CPI perspective.

1 Your average revenue per move grew faster than CPI.

2 That's good from the CPI perspective.

3 And without conceding that CPI is a good
4 pilot income measure because we don't, actual pilot
5 income compared to what they expected grew 25.2 percent
6 from 2011 to 2014. That's going back to the numbers
7 here. What did they tell the Board, you? What did they
8 tell you that they wanted? In 2014, \$448,000 with a
9 rate increase that's what they expected.

10 What happened if there's no rate increase?
11 They told the Board they expected to make \$362,000.
12 What did they actually make last year, \$453,000.
13 Compared to what they expected to make, their pilot
14 income grew 25 percent.

15 Considering rates charges for comparable
16 services in other ports, the evidence presented by the
17 petitioners includes in the summary. But as we pointed
18 out, it doesn't actually reflect what actually happens
19 with respect to vessels including ULCVs.

20 And we were actually pleased to see in the
21 discussion today that the pilots are comparing ULCV
22 pilotage in Oakland to other ports that our vessels
23 actually do call at, that's LA and Long Beach and Puget
24 Sound. And when compared to these ports, there's
25 absolutely no question that we pay a lot more here than

1 we do in LA and Long Beach. And to some of the
2 questions I received, the increase that was projected in
3 Long Beach is that little red dot right there at the
4 bottom right -- on the top right of each column for Long
5 Beach.

6 The point of this chart, pilot services
7 demonstrate in no way shape or form would the Long Beach
8 rate increase come the anywhere near Oakland's current
9 rates. What you're being asked to do today is to take
10 the top line which is Oakland's rate, increase that up
11 by almost 20 percent. That's just wrong.

12 Factor five, income paid for comparable
13 services. Again, if you look back to the purpose of the
14 petition, SFBP isn't asking for an increases in income.
15 To recover increased expenses and attract future
16 trainees. Nowhere does it ask for a pilot net income
17 increase, doesn't project what future average net income
18 needs to be, and certainly doesn't tell you what has to
19 be to attract and hold new trainees, probably in part
20 because we don't think that it is a good measure of
21 that.

22 They rely on findings from 2011 that they
23 are in the middle and that other rates have gone up. We
24 don't know if income has gone up in other places, just
25 their rates. But in any event, again, going back to

1 what they expected to be making right now based on 0
2 rate increase scenario in 2011, they're up 25 percent.
3 They don't need a rate increase of 11 percent to have
4 their income up. Their income is raised by 25 percent
5 compared to what is expected.

6 And then factoring in the amount of the
7 amount of work done for income is a standard measure of
8 evaluating income. You don't say someone worked a day
9 and made \$10,000 is earning at a rate that's less than
10 someone who made \$20,000 and worked 20 days for it.
11 That is not a standard or logical way to address income.
12 It needs to be compared to something. If you take the
13 view that there's absolutely nothing wrong with guys
14 making more for doing some less work, then that's the
15 current scenario.

16 And we're not here asking you to reduce
17 rates because of it. We're not here making an argument
18 for a reduction in the number of pilots. We're just
19 saying there's not a good basis for increasing rates if
20 you're actually moving fewer ships but earning more per
21 ship already under current rate.

22 And then Captain McIsaac's testimony today
23 reinforced the trend regarding ULCVs. He told us that
24 smaller vessels are being replaced by larger vessels.
25 And the trend at Oakland is that in 2011 there were 17

1 ULCV arrivals port is 2,100. And in 2014 we're up to
2 167 ULCVs, but total arrivals are down to 1,740. Well
3 yes, that's right. Total arrival is down to 83 percent.

4 Look at the average revenue per arrival,
5 non-ULCVs up 106.8 percent of 2011. Same thing is true
6 with average revenue per arrival per ULCVs. They're up
7 112 percent of 2011. That's on the average. Your
8 overall in Oakland, what are you earning now compared to
9 what you used to make in 2011, you're earning \$5,900
10 compared to \$5,000 per vessel move in Oakland, which is
11 up 17 percent in 2011.

12 So the start metric rate is the same as the
13 on the same graph we just showed you. Fewer moves, more
14 income per move. Same thing here. And we think that
15 Captain McIsaac's testimony is spot on in identifying
16 the trend and the problem that is manifesting itself.
17 Fewer moves, more revenue per move. The rate doesn't
18 change how many arrivals we have. You can change the
19 rate 5 percent, 20 percent. It is not going to affect
20 anything other than one individual ship pays.

21 With an individual ship on an average ULCV
22 right now at the current rate of 9.24 mills is paying
23 \$11,351. The average non-ULCV is paying \$5,362. Are
24 there fewer of them, yes. But do you need to change the
25 rate? Well, this demonstrates in the last three years

1 ships are paying more. So rate change does not change
2 the fact that fewer arrivals. You're just have fewer
3 arrivals. And that's something that I think
4 Mr. Paetzold pointed out to the Commission properly.
5 That's a subject for a 237 hearing, and that's not what
6 we're here to discuss today.

7 Neither party argued that factor six really
8 matters or should be a basis for a rate increase or
9 economic factors. We both identified the local labor
10 issues have been disrupted, but we don't know what the
11 long term trends are going to be. I believe that the
12 SFBP says they don't know what the new normal is. We
13 completely agree. We have seen people who are experts
14 on both sides of this arguing telling us that higher
15 operating costs are going to drive away traffic as a
16 result of the contract, and we lost customers for good
17 because of the disruption, you know.

18 And other people have said larger ships
19 calling at Oakland is a basis for optimism because of
20 the call in the West Coast, while they can't make the
21 trip canal trip and can't go to other places that aren't
22 dredged yet. So time will tell.

23 But we do want to reinforce the fact that
24 there is some policymaking involved with these types of
25 things. Even if you found that there's an evidentiary

1 basis for making a rate change, I don't think you can.
2 But even if you did, the policymaking of this Board
3 should be with the eye towards marginalizing costs.
4 Don't just give people an income boost or a raise just
5 because, you need a policy reason for it. The rate set
6 up needs to be competitive.

7 You're regulating a monopoly. You're the
8 voice of the consumer. We have no choice in what we pay
9 when a ship comes to California. You set the rates. It
10 needs to be mindful of the fact that when you do it you
11 have to, again, set that rate for all vessels and be
12 mindful of competitiveness.

13 On volume of shipping traffic, item eight,
14 there was not an overall projection of future moves, but
15 was evidence of higher ULCV moves. We both agree on
16 that. As of SFBP's 2014 sr237D report shows annual
17 moves at almost a 20-year average. Again, comparing to
18 2006 is comparing to a spike. So if the expectation of
19 the Board is that revenues are not going to grow because
20 we're not going to be back at that spike, you're right.
21 They're not going to grow because vessel moves, they're
22 going to grow because of the average GRT for the call.

23 On nine, there's no lack of pilots
24 available. There's no assertion of a lack of adequately
25 licensed pilots. That's part of the attract and hold.

1 There's absolutely no question that we have as close to
2 a full pilotage core as we can, given that we have
3 trainees in the pipeline that are qualified.

4 We acknowledge ten, risk to pilots, of
5 course. And everyone should be very mindful of the
6 risks and appreciate what it is the pilots do when
7 they're piloting. But the 236(F)(10) factor requires
8 that the risk the pilots be recognized, but any party
9 seeking to affect a rate change based on the grounds of
10 their material changes in those risks has burden of
11 proving such changes. Those kind of risks are presumed.
12 We know there are risks. But certainly inherent risks
13 haven't changed in such a degree of a material nature to
14 justify a rate change.

15 And again, it is interesting that we're
16 talking about E-nav. In the past, this has been
17 accounted for through a navigation technology surcharge.
18 That's not before us today. We would love to have a
19 discussion about that, but that's not the issue that's
20 before the Board. And, certainly, we would be open to
21 talking about that another day.

22 But in any event, the petition does not ask
23 for an increase in rates to pay for NavTech and it
24 wasn't included in our stipulated expenses.

25 But the rule, the factor, this factor

1 236(F)(11) directs that any of these costs should be
2 addressed under F1. F1 is the categorized expenses.
3 Address dually notice hearing pilots. If you think that
4 because of navigational technology improvements you need
5 fewer pilots or because of navigation technology you
6 need more pilots. Address that through a manpower
7 hearing, not at a rate hearing under this consideration.

8 So, again, we're back to the preponderance
9 of the evidence. Has the San Francisco Bar Pilots put
10 enough evidence in front of you to justify a rate
11 increase, much less a 19.25 percent compounded rate
12 increase? And we think the obvious answer is no.

13 And part of the reason why you go through
14 this hearing process is because the Board's regulations
15 require this Board to go through that question, not as a
16 question of policy and not as a question of popularity
17 and not based on any of the arguments that are driven by
18 the parties in front of you. It is an evaluation all of
19 the evidence received. And what determination of
20 potential pilot rate should be has to be warranted by
21 the evidence, which means you have to make findings
22 based on the evidence in front of you today.

23 In the end, what we have is a failure of
24 proof by the SFBP petition to prove its rate increase.
25 There's no evidence any rate increase is necessary to

1 cover projected increases or past expenses for that
2 matter.

3 There's no evidence that the current rate is
4 not able to attract and hold pilots because we have a
5 very qualified class of trainees, and we're filling in
6 the pilotage core out of those classes. And there's no
7 evidence pilots aren't earning a fair, reasonable income
8 for the amount of work completed.

9 Conversely, there's overwhelming evidence in
10 the record, even though we don't carry a burden as the
11 opposing party, they do. The evidence we put in shows
12 no increase is necessary. We all agree larger ships are
13 coming. The historical trends affirmed by trends in
14 2011 those were affirmed by the facts between now and
15 2014, because pilot income has reached record highs.
16 They're not lower, they're higher. And trainees and
17 pilots maintain adequate numbers in our pilotage core.

18 So in conclusion, we respectfully request
19 the Board consider all the evidence, consider the
20 natural growth of tonnage per vessel is likely to
21 continue to increase like the Board did in 2011 and
22 reject the San Francisco Bar Pilot's petition for rate
23 change. Thank you.

24 PRESIDENT JOHNSTON: Thank you very much. I would
25 like to thank the Comission Shipping Association and the

1 San Francisco Bar Pilots for their very professional
2 presentations today. Assure the Board will look at
3 everything very carefully and make a recommendation.

4 Outstanding presentations. Thank you both
5 very much for your work and dedication. Thank you.
6 Board deliberation then?

7 BOARD COUNSEL EAGAN: I suggest we might want to
8 adjourn.

9 PRESIDENT JOHNSTON: Do I hear a motion to
10 adjourn?

11 EXECUTIVE DIRECTOR GARFINKLE: Before we adjourn,
12 Mr. President, may I suggest that you decide whether you
13 want to continue to deliberate here in the morning, is
14 that the plan? Or adjourn to the Board offices to
15 deliberate?

16 PRESIDENT JOHNSTON: I think it would be easier to
17 adjourn to the Board offices unless there's an
18 objection.

19 BOARD COUNSEL EAGAN: Got a notice issue, though.

20 PRESIDENT JOHNSTON: Okay. It will be here then,
21 tomorrow morning.

22 EXECUTIVE DIRECTOR GARFINKLE: Continuing the
23 meeting to tomorrow morning at 9:30 here.

24 PRESIDENT JOHNSTON: Do I hear a motion to
25 adjourn?

1 COMMISSIONER LONG: Yes.

2 COMMISSIONER LIVINGSTONE: Long.

3 PRESIDENT JOHNSTON: Second by Mr. Livingstone.

4 All in favor say Aye.

5 ALL: Aye.

6 PRESIDENT JOHNSTON: Please adjourn.

7 -o0o-

8 (Whereupon the proceedings adjourned at 5:22 p.m.)

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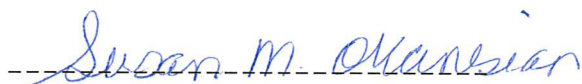
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1 State of California
2 County of San Francisco
3

4 I, SUSAN M. OHANESIAN, License No. 13528, Certified
5 Shorthand Reporter of the State of California, do hereby
6 certify:

7 That the said proceeding was under my direction
8 transcribed with the use of audio capabilities and
9 computer-assisted transcription, and that the foregoing
10 transcript constitutes a true and correct record of the
11 proceedings which then and there took place.

12 I am a disinterested person to the said action.
13
14
15

16
17 A handwritten signature in blue ink, reading "Susan M. Ohanian", is written over a dashed horizontal line.

18 SUSAN M. OHANESIAN, CSR
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